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Article 1. OIL AND GAS PRODUCTION TAX

Section

- 10. [Repealed].
- 11. Oil and gas production tax.
- 12. Adjustment in tax rates. [Repealed, § 34 ch 2 TSSLA 2006.]
- 13. Economic limit factor. [Repealed, § 34 ch 2 TSSLA 2006.]
- 15. [Repealed].
- 16. Gas production tax. [Repealed, § 34 ch 2 TSSLA 2006.]
- 17. Relation to other taxes.
- 18. [Repealed].
- 19. Oil or gas producer education credit.
- 20. Payment of tax.
- 21. Alaska veterans' memorial endowment fund contribution credit. [Repealed, § 25 ch 46 SLA 2002.]
- 23. Tax credits for certain losses and expenditures.
- 24. Additional nontransferable tax credits.
- 25. Alternative tax credit for oil and gas exploration.
- 28. Oil and gas tax credit fund established; cash purchases of tax credit certificates.
- 30. Filing of statements.
- 40. Powers of Department of Revenue.
- 50. Incorrect returns.
- 60. Delinquency.
- 70. [Repealed].
- 75. Limitation on assessment and amended returns.
- 80. Collection and deposit of revenue.
- 90. Refunds.
- 100. [Repealed].
- 110. Administration.
- 120 - 130. [Repealed].
- 135. Measurement.
- 140. [Renumbered].
- 150. Determination of gross value at the point of production.
- 160. Determination of production tax value of oil and gas.
- 165. Lease expenditures.
- 170. Adjustments to lease expenditures.
- 180. Required report.

Cross references. For statement of legislative intent regarding the investment of amounts collected by the state after December 31, 2007, of the incremental amounts received as a result of the 2007 amendments to the production tax on oil and gas (AS 43.55) as compared to amounts that would have been collected from levy of the tax under that chapter before the enactment of those amendments, see § 1(d), ch. 1, SSSLA 2007.

Sec. 43.55.010. Gross production tax. [Repealed, § 9 ch 136 SLA 1977.].

Sec. 43.55.011. Oil and gas production tax.

(a) *[Repealed, § 34 ch 2 TSSLA 2006.]*

(b) *[Repealed, § 34 ch 2 TSSLA 2006.]*

(c) *[Repealed, § 34 ch 2 TSSLA 2006.]*

(d) *[Repealed, § 18 ch 116 SLA 1981.]*

(e) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state, less any oil and gas the ownership or right to which is exempt from taxation or constitutes a landowner's royalty interest. Except as otherwise provided under (f), (j), (k), and (o) of this section, the tax is equal to the sum of

(1) the annual production tax value of the taxable oil and gas as calculated under AS 43.55.160(a)(1) multiplied by 25 percent; and

(2) the sum, over all months of the calendar year, of the tax amounts determined under (g) of this section.

(f) The levy of tax under this section for oil and gas produced north of 68 degrees North latitude, other than oil and gas production subject to (i) of this section and gas subject to (o) of this section, may not be less than

(1) four percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is more than \$25;

(2) three percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over \$20 but not over \$25;

(3) two percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over \$17.50 but not over \$20;

(4) one percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is over \$15 but not over \$17.50; or

(5) zero percent of the gross value at the point of production when the average price per barrel for Alaska North Slope crude oil for sale on the United States West Coast during the calendar year for which the tax is due is \$15 or less.

(g) For each month of the calendar year for which the producer's average monthly production tax value under AS 43.55.160(a)(2) per BTU equivalent barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes of (e)(2) of this section is determined by multiplying the monthly production tax value of the taxable oil and gas produced during the month by the tax rate calculated as follows:

(1) if the producer's average monthly production tax value per BTU equivalent barrel of the taxable oil and gas for the month is not more than \$92.50, the tax rate is 0.4 percent multiplied by the number that represents the difference between that average monthly production tax value per BTU equivalent barrel and \$30; or

(2) if the producer's average monthly production tax value per BTU equivalent barrel of the taxable oil and gas for the month is more than \$92.50, the tax rate is the sum of 25 percent and the product of 0.1 percent multiplied by the number that represents the difference between the average monthly production tax value per BTU equivalent barrel and \$92.50, except that the sum determined under this paragraph may not exceed 50 percent.

(h) *[Repealed, § 66 ch 1 SSSLA 2007.]*

(i) There is levied on the producer of oil or gas a tax for all oil and gas produced each calendar year from each lease or property in the state the ownership or right to which constitutes a landowner's royalty interest, except for oil and gas the ownership or right to which is exempt from taxation. The provisions of this subsection apply to a landowner's royalty interest as follows:

(1) the tax levied for oil is equal to five percent of the gross value at the point of production of the oil;

(2) the tax levied for gas is equal to 1.667 percent of the gross value at the point of production of the gas;

(3) if the department determines that, for purposes of reducing the producer's tax liability under (1) or (2) of this subsection, the producer has received or will receive consideration from the royalty owner offsetting all or a part of the producer's royalty obligation, other than a deduction under AS 43.55.020(d) of the amount of a tax paid, then, notwithstanding (1) and (2) of this subsection, the tax is equal to 25 percent of the gross value at the point of production of the oil and gas.

(j) For a calendar year before 2022, the tax levied by (e) of this section for gas produced from a lease or property in the Cook Inlet sedimentary basin may not exceed

(1) for a lease or property that first commenced commercial production of gas before April 1, 2006, the product obtained by multiplying (A) the amount of taxable gas produced during the calendar year from the lease or property, times (B) the average rate of tax that was imposed under this chapter for taxable gas produced from the lease or property for the 12-month period ending on March 31, 2006, times (C) the quotient obtained by dividing the total gross value at the point of production of the taxable gas produced from the lease or property during the 12-month period ending on March 31, 2006, by the total amount of that gas;

(2) for a lease or property that first commences commercial production of gas after March 31, 2006, the product obtained by multiplying (A) the amount of taxable gas produced

during the calendar year from the lease or property, times (B) the average rate of tax that was imposed under this chapter for taxable gas produced from all leases or properties in the Cook Inlet sedimentary basin for the 12-month period ending on March 31, 2006, times (C) the average prevailing value for gas delivered in the Cook Inlet area for the 12-month period ending March 31, 2006, as determined by the department under AS 43.55.020(f).

(k) For a calendar year before 2022, the tax levied by (e) of this section for oil produced from a lease or property in the Cook Inlet sedimentary basin may not exceed

(1) for a lease or property that first commenced commercial production of oil before April 1, 2006, the product obtained by multiplying (A) the amount of taxable oil produced during the calendar year from the lease or property, times (B) the average rate of tax that was imposed under this chapter for taxable oil produced from the lease or property for the 12-month period ending on March 31, 2006, times (C) the quotient obtained by dividing the total gross value at the point of production of the taxable oil produced from the lease or property during the 12-month period ending on March 31, 2006, by the total amount of that oil;

(2) for a lease or property that first commences commercial production of oil after March 31, 2006, the product obtained by multiplying (A) the amount of taxable oil produced during the calendar year from the lease or property, times (B) the average rate of tax that was imposed under this chapter for taxable oil produced from all leases or properties in the Cook Inlet sedimentary basin for the 12-month period ending on March 31, 2006, times (C) the average prevailing value for oil produced and delivered in the Cook Inlet area for the 12-month period ending on March 31, 2006, as determined by the department under AS 43.55.020(f).

(l) [Repealed, § 66 ch 1 SSSLA 2007.]

(m) Notwithstanding any contrary provision of AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025, the department shall provide by regulation a method to ensure that, for a calendar year for which a producer's tax liability is limited by (j), (k), or (o) of this section, tax credits otherwise available under AS 38.05.180(i), AS 41.09.010, AS 43.55.024, or 43.55.025 and allocated to gas subject to the limitations in (j), (k), and (o) of this section are accounted for as though the credits had been applied first against a tax liability calculated without regard to the limitations under (j), (k), and (o) of this section so as to reduce the tax liability to the maximum amount provided for under (j) or (o) of this section for the production of gas or (k) of this section for the production of oil. The regulation must provide for a reasonable method to allocate tax credits to gas subject to (j) and (o) of this section. Only the amount of a tax credit remaining after the accounting provided for under this subsection may be used for a later calendar year, transferred to another person, or applied against a tax levied on the production of oil or gas not subject to (j), (k), or (o) of this section to the extent otherwise allowed.

(n) [Repealed, § 66 ch 1 SSSLA 2007.]

(o) Notwithstanding other provisions of this section, for a calendar year before 2022, the tax levied under (e) of this section for each 1,000 cubic feet of gas for gas produced from a lease or property outside the Cook Inlet sedimentary basin and used in the state may not exceed the amount of tax for each 1,000 cubic feet of gas that is determined under (j)(2) of this section.

((§ 1 ch 136 SLA 1977; am §§ 12, 18 ch 116 SLA 1981; am §§ 5, 34 ch 2 TSSLA 2006; am §§ 15 - 21, 66 ch 1 SSSLA 2007))

Cross references. For oil and gas leasing provisions, see AS 38.05.180.

Administrative Code. - For gross value at the point of production of oil and gas, see 15 AAC 55, art. 1.

For production tax value of oil and gas, see 15 AAC 55, art. 2.

For tax credits, see 15 AAC 55, art. 3.

For levy of tax, see 15 AAC 55, art. 4.

For payments and reporting, see 15 AAC 55, art. 5.

Effect of amendments. The 2006 amendment, effective August 20, 2006, repealed subsections (a) - (c) and added subsections (e) - (n).

The 2007 amendment, effective December 20, 2007, repealed and reenacted subsection (e), which formerly provided, in pertinent part, "Except as otherwise provided under (j) and (k) of this section, the tax is equal to the greater of 22.5 percent of the production tax value of the taxable oil and gas as calculated under AS 43.55.160, or the minimum tax determined under (f) of this section."; in subsection (f), added "other than oil and gas production subject to (i) of this section and gas subject to (o) of this section" and made related changes; repealed and reenacted subsection (g), which formerly provided for a calculation based upon the price index in subsection (h); repealed subsection (h); in subsections (j) and (k), changed "the total tax levied by (e)" to "the tax levied by (e) and (g)", and made stylistic changes; repealed subsection (l); repealed and reenacted subsection (m), which formerly provided for handling of tax credits allocated to gas produced from leases or properties in the Cook Inlet sedimentary basin; repealed subsection (n); and added subsection (o).

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that the provisions of (e) - (n) of this section are retroactive to April 1, 2006, and "apply to oil and gas produced after March 31, 2006."

Section 74(d), ch. 1, SSSLA 2007, provides that the 2007 amendments of (e) - (g), (j), (k), and (m) of this section, the addition of (o) of this section, and the repeal of (h), (l), and (n) of the section are retroactive to July 1, 2007.

Sec. 43.55.012. Adjustment in tax rates. [Repealed, § 34 ch 2 TSSLA 2006].

Sec. 43.55.013. Economic limit factor. [Repealed, § 34 ch 2 TSSLA 2006].

Sec. 43.55.015. Tax per barrel of oil. [Repealed, § 9 ch 136 SLA 1977].

Sec. 43.55.016. Gas production tax. [Repealed, § 34 ch 2 TSSLA 2006].

Sec. 43.55.017. Relation to other taxes.

(a) Except as provided in this chapter, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax on

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and development costs, as described in 26 U.S.C. 263(c) (Internal Revenue Code), as amended through January 1, 1974.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by income taxes, franchise taxes, or taxes upon the retail sale of oil or gas products.

((§ 1 ch 136 SLA 1977; am § 36 ch 32 SLA 1997; am § 4 ch 34 SLA 1999; am § 6 ch 2 TSSLA 2006))

Effect of amendments. The 1999 amendment, effective July 1, 1999, deleted "AS 43.57 or" preceding "income taxes" in the first sentence of subsection (c) and made a minor stylistic change.

The 2006 amendment, effective August 20, 2006, substituted "development costs, as described in 26 U.S.C. 263(c) (Internal Revenue Code), as amended through January 1, 1974" for "exploration expenses" at the end of paragraph (a)(3), and made a minor stylistic change.

Opinions of attorney general. A municipality may not levy a transportation tax on crude oil flowing through the Trans Alaska Pipeline (pipeline) while the crude oil passes through the municipality. November 15, 1989 Op. Att'y Gen.

NOTES TO DECISIONS

Cited in *Liberati v. Bristol Bay Borough*, 584 P.2d 1115 (Alaska 1978).

Sec. 43.55.018. Credit against tax. [Repealed, § 18 ch 116 SLA 1981.].

Sec. 43.55.019. Oil or gas producer education credit.

(a) A producer of oil or gas is allowed a credit against the tax due under this chapter for cash contributions accepted

(1) for direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association;

(2) for secondary school level vocational education courses and programs by a school district in the state; and

(3) by a state-operated vocational technical education and training school.

(b) The amount of the credit is

(1) 50 percent of contributions of not more than \$100,000; and

(2) 100 percent of the next \$100,000 of contributions.

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under AS 21.89.070, 21.89.075, AS 43.20.014, AS 43.56.018, AS 43.65.018, AS 43.75.018, or AS 43.77.045, exceed \$150,000.

(e) The department may, by regulation, establish procedures by which a taxpayer may allocate a pro rata share of a credit claimed under this section against monthly tax payments made during the tax year.

(f) In this section,

(1) "school district" has the meaning given in AS 14.03.126;

(2) "vocational education" has the meaning given in AS 43.20.014.

((§ 4 ch 58 SLA 1987; am § 49 ch 21 SLA 1991; am §§ 4, 5, 12 ch 71 SLA 1991; am § 5 ch 21 SLA 1994; am § 18 ch 126 SLA 1994; am § 17 ch 81 SLA 1996; am § 4 ch 86 SLA 2000; am §§ 10, 11 ch 46 SLA 2002; am § 3 ch 48 SLA 2008))

Revisor's notes. References to "AS 43.55.011 - 43.55.150" were substituted for "this chapter" in (a) of this section in 1989 to reflect the enactment of AS 43.55.200 - 43.55.240.

In 1991, to harmonize the amendments made by chs. 21 and 71, SLA 1991, the words "by an Alaska" were inserted before "university foundation" in (a) of this section.

Effect of amendments. The 2000 amendment, effective July 1, 2000, inserted a section reference in paragraph (d)(2).

The 2002 amendment, effective June 19, 2002, added section references in paragraph (d)(2) and, effective July 1, 2003, deleted those added references.

The 2008 amendment, effective January 1, 2009, rewrote the section.

Sec. 43.55.020. Payment of tax.

(a) For a calendar year, a producer subject to tax under AS 43.55.011(e) - (i) shall pay the tax as follows:

(1) an installment payment of the estimated tax levied by AS 43.55.011(e), net of any tax credits applied as allowed by law, is due for each month of the calendar year on the last day of the following month; except as otherwise provided under (2) of this subsection, the amount of the installment payment is the sum of the following amounts, less 1/12 of the tax credits that are allowed by law to be applied against the tax levied by AS 43.55.011(e) for the calendar year, but the amount of the installment payment may not be less than zero:

(A) for oil and gas produced from leases or properties in the state outside the Cook Inlet sedimentary basin but not subject to AS 43.55.011(o), other than leases or properties subject to AS 43.55.011(f), the greater of

(i) zero; or

(ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for the leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from the leases or properties during the month for which the installment payment is calculated;

(B) for oil and gas produced from leases or properties subject to AS 43.55.011(f), the greatest of

(i) zero;

(ii) zero percent, one percent, two percent, three percent, or four percent, as applicable, of the gross value at the point of production of the oil and gas produced from all leases or properties during the month for which the installment payment is calculated; or

(iii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible for those leases or properties under AS 43.55.160 from the gross value at the point of production of the oil and gas produced from those leases or properties during the month for which the installment payment is calculated;

(C) for oil and gas produced from each lease or property subject to AS 43.55.011(j), (k), or (o), the greater of

(i) zero; or

(ii) the sum of 25 percent and the tax rate calculated for the month under AS 43.55.011(g) multiplied by the remainder obtained by subtracting 1/12 of the producer's adjusted lease expenditures for the calendar year of production under AS 43.55.165 and 43.55.170 that are deductible under AS 43.55.160 for oil or gas, respectively, produced from the lease or property from the gross value at the point of production of the oil or gas, respectively, produced from the lease or property during the month for which the installment payment is calculated;

(2) an amount calculated under (1)(C) of this subsection for oil or gas produced from a lease or property subject to AS 43.55.011(j), (k), or (o) may not exceed the product obtained by carrying out the calculation set out in AS 43.55.011(j)(1) or (2) or 43.55.011(o), as applicable, for gas or set out in AS 43.55.011(k)(1) or (2), as applicable, for oil, but substituting in AS 43.55.011(j)(1)(A) or (2)(A) or 43.55.011(o), as applicable, the amount of taxable gas produced during the month for the amount of taxable gas produced during the calendar year and substituting in AS 43.55.011(k)(1)(A) or (2)(A), as applicable, the amount of taxable oil produced during the month for the amount of taxable oil produced during the calendar year;

(3) an installment payment of the estimated tax levied by AS 43.55.011(i) for each lease or property is due for each month of the calendar year on the last day of the following month; the amount of the installment payment is the sum of

(A) the applicable tax rate for oil provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the oil taxable under AS 43.55.011(i) and produced from the lease or property during the month; and

(B) the applicable tax rate for gas provided under AS 43.55.011(i), multiplied by the gross value at the point of production of the gas taxable under AS 43.55.011(i) and produced from the lease or property during the month;

(4) any amount of tax levied by AS 43.55.011(e) or (i), net of any credits applied as allowed by law, that exceeds the total of the amounts due as installment payments of estimated tax is due on March 31 of the year following the calendar year of production.

(b) The production tax on oil and gas shall be paid to the department by or on behalf of the producer.

(c) *[Repealed, § 7 ch 101 SLA 1972.]*

(d) In making settlement with the royalty owner for oil and gas that is taxable under AS 43.55.011, the producer may deduct the amount of the tax paid on taxable royalty oil and gas, or may deduct taxable royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid. If the total deductions of installment payments of estimated tax for a calendar year exceed the actual tax for that calendar year, the producer shall, before April 1 of the following year, refund the excess to the royalty owner. Unless otherwise agreed between the producer and the royalty owner, the amount of the tax paid under AS 43.55.011(e) - (g) on taxable royalty oil and gas for a calendar year, other than oil and gas the ownership or right to which constitutes a landowner's royalty interest, is considered to be the gross value at the point of production of the taxable royalty oil and gas produced during the calendar year multiplied by a figure that is a quotient, in which

(1) the numerator is the producer's total tax liability under AS 43.55.011(e) - (g) for the calendar year of production; and

(2) the denominator is the total gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) - (g) produced by the producer from all leases and properties in the state during the calendar year.

(e) Gas flared, released, or allowed to escape in excess of the amount authorized by the Alaska Oil and Gas Conservation Commission is considered, for the purpose of AS 43.55.011 - 43.55.180, as gas produced from a lease or property. Oil or gas used in the operation of a lease or property in the state in drilling for or producing oil or gas, or for repressuring, except to the extent determined by the Alaska Oil and Gas Conservation Commission to be waste, is not considered, for the purpose of AS 43.55.011 - 43.55.180, as oil or gas produced from a lease or property.

(f) If oil or gas is produced but not sold, or if oil or gas is produced and sold under circumstances where the sale price does not represent the prevailing value for oil or gas of like kind, character, or quality in the field or area from which the product is produced, the department may require the tax to be paid upon the basis of the value of oil or gas of the same kind, quality, and character prevailing for that field or area during the calendar month of production or sale.

(g) Notwithstanding any contrary provision of AS 43.05.225, an unpaid amount of an installment payment required under (a)(1) - (3) of this section that is not paid when due bears interest (1) at the rate provided for an underpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from the date the installment payment is due until March 31 following the calendar year of production, and (2) as provided for a delinquent tax under AS 43.05.225 after that March 31. Interest accrued under (1) of this subsection that remains unpaid after that March 31 is treated as an addition to tax that bears interest under (2) of this subsection. An unpaid amount of tax due under (a)(4) of this

section that is not paid when due bears interest as provided for a delinquent tax under AS 43.05.225.

(h) Notwithstanding any contrary provision of AS 43.05.280,

(1) an overpayment of an installment payment required under (a)(1) - (3) of this section bears interest at the rate provided for an overpayment under 26 U.S.C. 6621 (Internal Revenue Code), as amended, compounded daily, from the later of the date the installment payment is due or the date the overpayment is made, until the earlier of

(A) the date it is refunded or is applied to an underpayment; or

(B) March 31 following the calendar year of production;

(2) except as provided under (1) of this subsection, interest with respect to an overpayment is allowed only on any net overpayment of the payments required under (a) of this section that remains after the later of March 31 following the calendar year of production or the date that the statement required under AS 43.55.030(a) is filed;

(3) interest is allowed under (2) of this subsection only from a date that is 90 days after the later of March 31 following the calendar year of production or the date that the statement required under AS 43.55.030(a) is filed; interest is not allowed if the overpayment was refunded within the 90-day period;

(4) interest under (2) and (3) of this subsection is paid at the rate and in the manner provided in AS 43.05.225(1).

((§ 3 ch 7 ESLA 1955; am §§ 5 - 9 ch 101 SLA 1972; am § 7 ch 107 SLA 1976; am §§ 2, 3 ch 136 SLA 1977; am § 3 ch 158 SLA 1978; am §§ 48, 49 ch 50 SLA 1989; am § 27 ch 168 SLA 1990; am §§ 7 - 12 ch 2 TSSLA 2006; am §§ 22 - 24 ch 1 SSSLA 2007))

Revisor's notes. A reference to "AS 43.55.011 - 43.55.150" was substituted for "this chapter" in (e) of this section in 1989 to reflect the enactment of AS 43.55.200 - 43.55.240.

Cross references. For statement of legislative intent regarding the 2006 amendment of (f) of this section, see § 1(a), ch. 2, TSSLA 2006, in the 2006 Temporary and Special Acts. For transitional provisions for taxes due on oil and gas produced after March 31, 2006, and before January 1, 2007, see § 36(c), (d), and (g), ch. 2, TSSLA 2006 in the 2006 Temporary and Special Acts.

For transitional provision applicable to persons subject to the tax imposed by this chapter and required to make one or more installment payments of estimated tax or other payment under (a) of this section during the period after March 31, 2006, and before December 20, 2007, see § 71(a), ch. 1, SSSLA 2007.

Administrative Code. - For gross value at the point of production of oil and gas, see 15 AAC 55, art. 1.

For tax credits, see 15 AAC 55, art. 3.

For levy of tax, see 15 AAC 55, art. 4.

For payments and reporting, see 15 AAC 55, art. 5.

Effect of amendments. The 2006 amendment, effective August 20, 2006, rewrote subsection (a), substituted "oil and gas" for "oil or gas" in subsections (b) and (d), inserted "to the department" in subsection (b), inserted "for oil and gas that is taxable under AS 43.55.011" in the first sentence of subsection (d), twice inserted "taxable" in that sentence, added the last two sentences of that subsection, including paragraphs (d)(1) and (2), rewrote subsection (e), inserted "produced but not

sold, or if oil or gas is produced and" and "for that field or area" in subsection (f), substituted "or sale" for "for that field or area" at the end of subsection (f), and added subsections (g) and (h).

The 2007 amendment, effective December 20, 2007, repealed and reenacted subsection (a), changed the tax rate from 22.5 percent to 25 percent, and incorporated the substance of former (a)(4) and (a)(5) under present (a)(3); in subsection (g), in the first sentence substituted "payment required under (a)(1) - (3)" for "payment required under (a)(1) - (4)", and "until March 31 following the calendar year of production" for "the March 31 described in AS 42.55.030(a)", and, in the third sentence, substituted "tax due under (a)(4)" for "tax due under (a)(5)"; in subsection (h), in (h)(1) substituted "required under (a)(1) - (3)" for "required under (a)(1) - (4)", and in (h)(1)(B), (h)(2), and (h)(3), substituted "March 31 following the calendar year of production" for "the March 31 described in AS 43.55.030(a)".

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that the 2006 repeal and reenactment of (a) and (e) of this section, the 2006 amendment of (b) and (d) of this section, and the provisions of (g) and (h) of this section are retroactive to April 1, 2006, and "apply to oil and gas produced after March 31, 2006." Section 35(b), ch. 2, TSSLA 2006, provides that the 2006 amendment of (f) of this section "applies to oil and gas produced before, on, or after August 20, 2006."

Section 74(d), ch. 1, SSSLA 2007, provides that the 2007 amendments of (a), (g), and (h) of this section are retroactive to July 1, 2007.

Legislative history reports. For report on ch. 101, SLA 1972 (FCCS HCSSB 168), see 1972 House Journal, p. 963. For report on ch. 107, SLA 1976 (SCS CSHB 583), see 1976 House Journal, p. 556.

NOTES TO DECISIONS

Cited in Hickel v. Halford, 872 P.2d 171 (Alaska 1994).

Sec. 43.55.021. Alaska veterans' memorial endowment fund contribution credit.
[Repealed, § 25 ch 46 SLA 2002.].

Sec. 43.55.023. Tax credits for certain losses and expenditures.

(a) A producer or explorer may take a tax credit for a qualified capital expenditure as follows:

(1) notwithstanding that a qualified capital expenditure may be a deductible lease expenditure for purposes of calculating the production tax value of oil and gas under AS 43.55.160(a), unless a credit for that expenditure is taken under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025, a producer or explorer that incurs a qualified capital expenditure may also elect to apply a tax credit against a tax levied by AS 43.55.011(e) in the amount of 20 percent of that expenditure; however, not more than half of the tax credit may be applied for a single calendar year;

(2) a producer or explorer may take a credit for a qualified capital expenditure incurred in connection with geological or geophysical exploration or in connection with an exploration well only if the producer or explorer

(A) agrees, in writing, to the applicable provisions of AS 43.55.025(f)(2);

(B) submits to the Department of Natural Resources all data that would be required to be submitted under AS 43.55.025(f)(2).

(b) A producer or explorer may elect to take a tax credit in the amount of 25 percent of a carried-forward annual loss. A credit under this subsection may be applied against a tax levied by AS 43.55.011(e). For purposes of this subsection, a carried-forward annual loss is the amount of a producer's or explorer's adjusted lease expenditures under AS 43.55.165 and 43.55.170 for a previous calendar year that was not deductible in calculating production tax values for that calendar year under AS 43.55.160.

(c) A credit or portion of a credit under this section may not be used to reduce a person's tax liability under AS 43.55.011(e) for any calendar year below zero, and any unused credit or portion of a credit not used under this subsection may be applied in a later calendar year.

(d) Except as limited by (i) of this section, a person that is entitled to take a tax credit under this section that wishes to transfer the unused credit to another person or obtain a cash payment under AS 43.55.028 may apply to the department for transferable tax credit certificates. An application under this subsection must be in a form prescribed by the department and must include supporting information and documentation that the department reasonably requires. The department shall grant or deny an application, or grant an application as to a lesser amount than that claimed and deny it as to the excess, not later than 120 days after the latest of (1) March 31 of the year following the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; (2) the date the statement required under AS 43.55.030(a) or (e) was filed for the calendar year in which the qualified capital expenditure or carried-forward annual loss for which the credit is claimed was incurred; or (3) the date the application was received by the department. If, based on the information then available to it, the department is reasonably satisfied that the applicant is entitled to a credit, the department shall issue the applicant two transferable tax credit certificates, each for half of the amount of the credit. The credit shown on one of the two certificates is available for immediate use. The credit shown on the second of the two certificates may not be applied against a tax for a calendar year earlier than the calendar year following the calendar year in which the certificate is issued, and the certificate must contain a conspicuous statement to that effect. A certificate issued under this subsection does not expire.

(e) A person to which a transferable tax credit certificate is issued under (d) of this section may transfer the certificate to another person, and a transferee may further transfer the certificate. Subject to the limitations set out in (a) - (d) of this section, and notwithstanding any action the department may take with respect to the applicant under (g) of this section, the owner of a certificate may apply the credit or a portion of the credit shown on the certificate only against a tax levied by AS 43.55.011(e). However, a credit shown on a transferable tax credit certificate may not be applied to reduce a transferee's total tax liability under AS 43.55.011(e) for oil and gas produced during a calendar year to less than 80 percent of the tax that would otherwise be due without applying that credit. Any portion of a credit not used under this subsection may be applied in a later period.

(f) *[Repealed, § 67 ch 1 SSSLA 2007.]*

(g) The issuance of a transferable tax credit certificate under (d) of this section or the purchase of a certificate under AS 43.55.028 does not limit the department's ability to later

audit a tax credit claim to which the certificate relates or to adjust the claim if the department determines, as a result of the audit, that the applicant was not entitled to the amount of the credit for which the certificate was issued. The tax liability of the applicant under AS 43.55.011(e) and 43.55.017 - 43.55.180 is increased by the amount of the credit that exceeds that to which the applicant was entitled, or the applicant's available valid outstanding credits applicable against the tax levied by AS 43.55.011(e) are reduced by that amount. If the applicant's tax liability is increased under this subsection, the increase bears interest under AS 43.05.225 from the date the transferable tax credit certificate was issued. For purposes of this subsection, an applicant that is an explorer is considered a producer subject to the tax levied by AS 43.55.011(e).

(h) Regulations adopted to implement this section must include provisions prescribing reporting, record keeping, and certification procedures and requirements to verify the accuracy of credits claimed and to ensure that a credit is not used more than once.

(i) For the purposes of this section,

(1) a producer's or explorer's transitional investment expenditures are the sum of the expenditures the producer or explorer incurred after March 31, 2001, and before April 1, 2006, that would be qualified capital expenditures if they were incurred after March 31, 2006, less the sum of the payments or credits the producer or explorer received before April 1, 2006, for the sale or other transfer of assets, including geological, geophysical, or well data or interpretations, acquired by the producer or explorer as a result of expenditures the producer or explorer incurred before April 1, 2006, that would be qualified capital expenditures, if they were incurred after March 31, 2006;

(2) a producer or explorer that did not have commercial production of oil or gas from a lease or property in the state before January 1, 2008, may elect to take a tax credit against a tax levied by AS 43.55.011(e) in the amount of 20 percent of the producer's or explorer's transitional investment expenditures, but only to the extent that the amount does not exceed 1/10 of the producer's or explorer's qualified capital expenditures that were incurred after March 31, 2006, and before January 1, 2008;

(3) a producer or explorer may not take a tax credit for a transitional investment expenditure

(A) for any calendar year after 2013;

(B) more than once; or

(C) if a credit for that expenditure was taken under AS 38.05.180(i), AS 41.09.010, AS 43.20.043, or AS 43.55.025;

(4) notwithstanding (d), (e), and (g) of this section, a producer or explorer may not transfer a tax credit or obtain a transferable tax credit certificate for a transitional investment expenditure.

(j) As a condition of receiving a tax credit under this section, a producer or explorer that obtains the tax credit for or directly related to a pipeline, facility, or other asset that is or becomes subject to regulation by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or a successor regulatory body shall at all times support and in all rate proceedings file to flow through 100 percent of the tax credits to ratepayers as a reduction in the costs of service for the pipeline, facility, or other asset.

(k) An entity that is exempt from taxation under this chapter may not apply for a transferable tax credit certificate.

(l) In this section, "qualified capital expenditure"

(1) means, except as otherwise provided in (2) of this subsection, an expenditure that is a lease expenditure under AS 43.55.165 and is

(A) incurred for geological or geophysical exploration; or

(B) treated as a capitalized expenditure under 26 U.S.C. (Internal Revenue Code), as amended, regardless of elections made under 26 U.S.C. 263(c) (Internal Revenue Code), as amended, and is

(i) treated as a capitalized expenditure for federal income tax reporting purposes by the person incurring the expenditure; or

(ii) eligible to be deducted as an expense under 26 U.S.C. 263(c) Internal Revenue Code), as amended;

(2) does not include an expenditure incurred to acquire an asset (A) the cost of previously acquiring which was a lease expenditure under AS 43.55.165 or would have been a lease expenditure under AS 43.55.165 if it had been incurred after March 31, 2006; for purposes of this subparagraph, "asset" includes geological, geophysical, and well data and interpretations; or (B) that has previously been placed in service in the state; an expenditure to acquire an asset is not excluded under this paragraph if not more than an immaterial portion of the asset meets a description under this paragraph.

((§ 13 ch 2 TSSLA 2006; am §§ 25 - 31, 67 ch 1 SSSLA 2007))

Revisor's notes. Subsection (k) was enacted as (l); relettered in 2008 at which time subsection (k) was relettered as (l).

Cross references. For a transitional provision, for oil and gas produced after March 31, 2006, and before January 1, 2007, see § 36(a), ch. 2, TSSLA 2006 in the 2006 Temporary and Special Acts.

Administrative Code. - For production tax value of oil and gas, see 15 AAC 55, art. 2.

For tax credits, see 15 AAC 55, art. 3.

Effect of amendments. The 2007 amendment, effective December 20, 2007, in subsection (a), in (a)(1), added "however, not more than half of the tax credit may be applied for a single calendar year", in (a)(2), following "producer or explorer" deleted "provides to the department, as part of the statement required under AS 43.55.030(a) for the calendar year for which the credit is sought to be taken, the producer's or explorer's written agreement", rewrote (a)(2)(A), which read "to notify the Department of Natural Resources, before the later of 30 days after completion of the geological or geophysical data processing or completion of the well, or 30 days after the statement is filed, of the date of completion and to submit a report to that department describing the processing sequence and provide a list of data sets available", rewrote (a)(2)(B), which read "to provide to the Department of Natural Resources, within 30 days after the date of a request, specific data sets, ancillary data, and reports identified in (A) of this paragraph", and deleted (a)(2)(C), which read "that, notwithstanding any provision of AS 38, the Department of Natural Resources shall hold confidential the information provided to that department under this paragraph for 10 years following the completion date, after which the department shall publicly release the information after 30 days' public notice"; in subsection (b) substituted "in the amount of 25 percent" for "in the amount of 20 percent", added "in calculating production tax values" following "was not deductible", deleted "(b) and (e)" following "AS 43.55.160", and made minor stylistic changes; in subsection (d), in the first

sentence, following "unused credit to another person" added "or obtain a cash payment under AS 43.55.028", in the third sentence, substituted "not later than 120 days after the latest" for "not later than 60 days after the latest", rewrote (d)(2), which read "if the applicant is required under AS 43.55.030(a) to file a statement on or before March 31 of the year following the calendar year in which the qualified capital expenditures or carried-forward annual loss for which the credit is claimed was incurred," added the language beginning "The credit shown on one" through "conspicuous statement to that effect", and made stylistic changes throughout the subsection, and added subsection (l) (now (k)); and effective January 1, 2008, repealed subsection (f), in the first sentence of subsection (g), substituted "purchase of a certificate" for "issuance of a cash refund" and "AS 43.55.028" for "(f) of this section"; in subsection (i)(2), added "that did not have commercial production of oil or gas from a lease or property in the state before January 1, 2008", substituted "were incurred after March 31, 2006, and before January 1, 2008" for "are incurred during the calendar year for which the credit is taken", and made a stylistic change, rewrote (i)(3), which previously read "(3) a producer or explorer may not take a tax credit for a transitional investment expenditure (A) for any calendar year after the later of (i) 2013; or (ii) the sixth calendar year after the calendar year for which the producer first applies a credit under this subsection against a tax due under AS 43.55.011(e), if the producer did not have commercial production of oil or gas from a lease or property in the state before April 1, 2006;"

Effective dates. Section 40, ch. 2, TSSLA 2006, makes this section effective August 20, 2006.

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that this section is retroactive to April 1, 2006, and "appl[ies] to oil and gas produced after March 31, 2006."

Section 74(d), ch. 1, SSSLA 2007, provides that the 2007 amendments of (a), (b), (d), and (e) of this section are retroactive to July 1, 2007. Subsection 74(b), ch. 1, SSSLA 2007, provides that (k) of this section, enacted as (l), is retroactive to April 1, 2006. Section 68(b), ch. 1, SSSLA 2007 provides that "[i]f an application made under [former] AS 43.55.023(f) is received by the Department of Revenue before January 1, 2008, and is still outstanding on that date, the application is considered to be an application under AS 43.55.028."

Sec. 43.55.024. Additional nontransferable tax credits.

(a) For a calendar year for which a producer's tax liability under AS 43.55.011(e) on oil and gas produced from leases or properties outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, exceeds zero before application of any credits under this chapter, a producer that is qualified under (e) of this section may apply a tax credit against that liability of not more than \$6,000,000.

(b) A producer may not take a tax credit under (a) of this section for any calendar year after the later of

(1) 2016; or

(2) the ninth calendar year after the calendar year during which the producer first has commercial oil or gas production before May 1, 2016, from at least one lease or property in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, if the producer did not have commercial oil or gas production from a lease or property in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, before April 1, 2006.

(c) For a calendar year for which a producer's tax liability under AS 43.55.011(e) exceeds zero before application of any credits under this chapter, other than a credit under (a) of this section but after application of any credit under (a) of this section, a producer that is qualified under (e) of this section and whose average amount of oil and gas produced a day and taxable under AS 43.55.011(e) is less than 100,000 BTU equivalent barrels a day may

apply a tax credit under this subsection against that liability. A producer whose average amount of oil and gas produced a day and taxable under AS 43.55.011(e) is

(1) not more than 50,000 BTU equivalent barrels may apply a tax credit of not more than \$12,000,000 for the calendar year;

(2) more than 50,000 and less than 100,000 BTU equivalent barrels may apply a tax credit of not more than \$12,000,000 multiplied by the following fraction for the calendar year:

$$1 - [2 \times (AP - 50,000)] \div 100,000$$

where AP = the average amount of oil and gas taxable under AS 43.55.011(e), produced a day during the calendar year in BTU equivalent barrels.

(d) A producer may not take a tax credit under (c) of this section for any calendar year after the later of

(1) 2016; or

(2) if the producer did not have commercial oil or gas production from a lease or property in the state before April 1, 2006, the ninth calendar year after the calendar year during which the producer first has commercial oil or gas production before May 1, 2016, from at least one lease or property in the state.

(e) On written application by a producer that includes any information the department may require, the department shall determine whether the producer qualifies for a calendar year under this section. To qualify under this section, a producer must demonstrate that its operation in the state or its ownership of an interest in a lease or property in the state as a distinct producer would not result in the division among multiple producer entities of any production tax liability under AS 43.55.011(e) that reasonably would be expected to be attributed to a single producer if the tax credit provisions of (a) or (c) of this section did not exist.

(f) A tax credit authorized by (a) of this section may not be applied to reduce a producer's tax liability for any calendar year under AS 43.55.011(e) on oil and gas produced from leases or properties outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, below zero.

(g) A tax credit authorized by (c) of this section may not be applied to reduce a producer's tax liability for any calendar year under AS 43.55.011(e) below zero.

(h) An unused tax credit or portion of a tax credit under this section is not transferable and may not be carried forward for use in a later calendar year.

((§ 13 ch 2 TSSLA 2006; am §§ 32 - 35 ch 1 SSSLA 2007))

Administrative Code. - For tax credits, see 15 AAC 55, art. 3.

Effect of amendments. The 2007 amendment, effective December 20, 2007, in subsections (a), (c), (e), and (g), deleted "or (f)" following "under AS 43.55.011(e)".

Effective dates. Section 40, ch. 2, TSSLA 2006, makes this section effective August 20, 2006.

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that this section is retroactive to April 1, 2006, and "appl[ies] to oil and gas produced after March 31, 2006."

Section 74(d), ch. 1, SSSLA 2007, provides that the 2007 amendments of (a), (c), (e), and (g) of this section are retroactive to July 1, 2007.

Sec. 43.55.025. Alternative tax credit for oil and gas exploration.

(a) Subject to the terms and conditions of this section, a credit against the production tax levied by AS 43.55.011(e) is allowed for exploration expenditures that qualify under (b) of this section in an amount equal to one of the following:

(1) 30 percent of the total exploration expenditures that qualify only under (b) and (c) of this section;

(2) 30 percent of the total exploration expenditures that qualify only under (b) and (d) of this section;

(3) 40 percent of the total exploration expenditures that qualify under (b), (c), and (d) of this section; or

(4) 40 percent of the total exploration expenditures that qualify only under (b) and (e) of this section.

(b) To qualify for the production tax credit under (a) of this section, an exploration expenditure must be incurred for work performed after June 30, 2008, and before July 1, 2016, and

(1) may be for seismic or other geophysical exploration costs not connected with a specific well;

(2) if for an exploration well,

(A) must be incurred by an explorer that holds an interest in the exploration well for which the production tax credit is claimed;

(B) may be for either a well that encounters an oil or gas deposit or a dry hole;

(C) must be for a well that has been completed, suspended, or abandoned at the time the explorer claims the tax credit under (f) of this section; and

(D) must be for goods, services, or rentals of personal property reasonably required for the surface preparation, drilling, casing, cementing, and logging of an exploration well, and, in the case of a dry hole, for the expenses required for abandonment if the well is abandoned within 18 months after the date the well was spudded;

(3) may not be for administration, supervision, engineering, or lease operating costs; geological or management costs; community relations or environmental costs; bonuses, taxes, or other payments to governments related to the well; costs, including repairs and replacements, arising from or associated with fraud, wilful misconduct, gross negligence, criminal negligence, or violation of law, including a violation of 33 U.S.C. 1319(c)(1) or 1321(b)(3) (Clean Water Act); or other costs that are generally recognized as indirect costs or financing costs; and

(4) may not be incurred for an exploration well or seismic exploration that is included in a plan of exploration or a plan of development for any unit before May 14, 2003.

(c) To be eligible for the 30 percent production tax credit authorized by (a)(1) of this section or the 40 percent production tax credit authorized by (a)(3) of this section, exploration expenditures must

(1) qualify under (b) of this section; and

(2) be for an exploration well, subject to the following:

(A) before the well is spudded,

(i) the explorer shall submit to the commissioner of natural resources the information necessary to determine whether the geological objective of the well is a potential oil or gas trap that is distinctly separate from any trap that has been tested by a preexisting well;

(ii) at the time of the submittal of information under (i) of this subparagraph, the commissioner of natural resources may request from the explorer that specific data sets, ancillary data, and reports including all results, and copies of well data collected and data analyses for the well be provided to the Department of Natural Resources upon completion of the drilling; in this sub-subparagraph, well data include all analyses conducted on physical material, and well logs collected from the well and sample analyses; testing geophysical and velocity data including vertical seismic profiles and check shot surveys; testing data and analyses; age data; geochemical analyses; and access to tangible material; and

(iii) the commissioner of natural resources must make an affirmative determination as to whether the geological objective of the well is a potential oil or gas trap that is distinctly separate from any trap that has been tested by a preexisting well and what information under (ii) of this subparagraph must be submitted by the explorer after completion, abandonment, or suspension under AS 31.05.030; the commissioner of natural resources shall make that determination within 60 days after receiving all the necessary information from the explorer based on the information received and on other information the commissioner of natural resources considers relevant;

(B) for an exploration well other than a well to explore a Cook Inlet prospect, the well must be located and drilled in such a manner that the bottom hole is located not less than three miles away from the bottom hole of a preexisting well drilled for oil or gas, irrespective of whether the preexisting well has been completed, suspended, or abandoned;

(C) after completion, suspension, or abandonment under AS 31.05.030 of the exploration well, the commissioner of natural resources must determine that the well was consistent with achieving the explorer's stated geological objective.

(d) To be eligible for the 30 percent production tax credit authorized by (a)(2) of this section or the 40 percent production tax credit authorized by (a)(3) of this section, an exploration expenditure must

(1) qualify under (b) of this section; and

(2) be for an exploration well that is located not less than 25 miles outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development, except that for an exploration well for a Cook Inlet prospect to qualify under this paragraph, the exploration well must be located not less than 10 miles outside the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development.

(e) To be eligible for the 40 percent production tax credit authorized by (a)(4) of this section, the exploration expenditure must

(1) qualify under (b) of this section;

(2) be for seismic exploration; and

(3) have been conducted outside the boundaries of a production unit or an exploration unit; however, the amount of the expenditure that is otherwise eligible under this subsection is reduced proportionately by the portion of the seismic exploration activity that crossed into a production unit or an exploration unit.

(f) For a production tax credit under this section,

(1) an explorer shall, in a form prescribed by the department and, except for a credit under (k) of this section, within six months of the completion of the exploration activity, claim the credit and submit information sufficient to demonstrate to the department's satisfaction that the claimed exploration expenditures qualify under this section; in addition, the explorer shall submit information necessary for the commissioner of natural resources to evaluate the validity of the explorer's compliance with the requirements of this section;

(2) an explorer shall agree, in writing,

(A) to notify the Department of Natural Resources, within 30 days after completion of seismic or geophysical data processing, completion of well drilling, or filing of a claim for credit, whichever is the latest, for which exploration costs are claimed, of the date of completion and submit a report to that department describing the processing sequence and providing a list of data sets available;

(B) to provide to the Department of Natural Resources, within 30 days after the date of a request, unless a longer period is provided by the Department of Natural Resources, specific data sets, ancillary data, and reports identified in (A) of this paragraph; in this subparagraph,

(i) a seismic or geophysical data set includes the data for an entire seismic survey, irrespective of whether the survey area covers nonstate land in addition to state land or land in a unit in addition to land outside a unit;

(ii) well data include all analyses conducted on physical material, and well logs collected from the well, results, and copies of data collected and data analyses for the well, including well logs; sample analyses; testing geophysical and velocity data including seismic profiles and check shot surveys; testing data and analyses; age data; geochemical analyses; and tangible material;

(C) that, notwithstanding any provision of AS 38, information provided under this paragraph will be held confidential by the Department of Natural Resources,

(i) in the case of well data, until the expiration of the 24-month period of confidentiality described in AS 31.05.035(c), at which time the Department of Natural Resources will release the information after 30 days' public notice unless, in the discretion of the commissioner of natural resources, it is necessary to protect information relating to the valuation of unleased acreage in the same vicinity, or unless the well is on private land and the owner, including the lessor but not the lessee, of the oil and gas resources has not given permission to release the well data;

(ii) in the case of seismic or other geophysical data, other than seismic data acquired by seismic exploration subject to (k) of this section, for 10 years following the completion date, at which time the Department of Natural Resources will release the information after 30 days' public notice, except as to seismic or other geophysical data acquired from private land, unless the owner, including a lessor but not a lessee, of the oil and gas resources in the private land gives permission to release the seismic or other geophysical data associated with the private land;

(iii) in the case of seismic data obtained by seismic exploration subject to (k) of this section, only until the expiration of 30 days' public notice issued on or after the date the production tax credit certificate is issued under (5) of this subsection;

(3) if more than one explorer holds an interest in a well or seismic exploration, each explorer may claim an amount of credit that is proportional to the explorer's cost incurred;

(4) the department may exercise the full extent of its powers as though the explorer were a taxpayer under this title, in order to verify that the claimed expenditures are qualified exploration expenditures under this section; and

(5) if the department is satisfied that the explorer's claimed expenditures are qualified under this section and that all data required to be submitted under this section have been submitted, the department shall issue to the explorer a production tax credit certificate for the amount of credit to be allowed against production taxes levied by AS 43.55.011(e); notwithstanding any contrary provision of AS 38, AS 40.25.100, or AS 43.05.230, the following information is not confidential:

(A) the explorer's name;

(B) the date of the application;

(C) the location of the well or seismic exploration;

(D) the date of the department's issuance of the certificate; and

(E) the date on which the information required to be submitted under this section will be released.

(g) An explorer, other than an entity that is exempt from taxation under this chapter, may transfer, convey, or sell its production tax credit certificate to any person, and any person who receives a production tax credit certificate may also transfer, convey, or sell the certificate.

(h) A producer that purchases a production tax credit certificate may apply the credits against its production tax levied by AS 43.55.011(e). Regardless of the price the producer

paid for the certificate, the producer may receive a credit against its production tax liability for the full amount of the credit, but for not more than the amount for which the certificate is issued. A production tax credit allowed under this section may not be applied more than once.

(i) For a production tax credit under this section,

(1) a credit may not be applied to reduce a taxpayer's tax liability under AS 43.55.011(e) below zero for a calendar year; and

(2) an amount of the production tax credit in excess of the amount that may be applied for a calendar year under this subsection may be carried forward and applied against the taxpayer's tax liability under AS 43.55.011(e) in one or more later calendar years.

(j) Notwithstanding any other provision of this title, of AS 31.05, or of AS 40.25.100, the department shall provide to the Department of Natural Resources information submitted with a claim under this section to support the eligibility of an exploration expenditure, including seismic exploration data and well data, and any information described in (f)(2) of this section received by the department.

(k) Subject to the terms and conditions of this section, if a claim is filed under (f)(1) of this section before January 1, 2016, a credit against the production tax levied by AS 43.55.011(e) is allowed in an amount equal to five percent of an eligible expenditure under this subsection incurred for seismic exploration performed before July 1, 2003. To be eligible under this subsection, an expenditure must

(1) have been for seismic exploration that

(A) obtained data that the commissioner of natural resources considers to be in the best interest of the state to acquire for public distribution; and

(B) was conducted outside the boundaries of a production unit; however, the amount of the expenditure that is otherwise eligible under this section is reduced proportionately by the portion of the seismic exploration activity that crossed into a production unit; and

(2) qualify under (b)(3) of this section.

(l) In this section,

(1) *[Repealed, § 34 ch 2 TSSLA 2006.]*

(2) "Cook Inlet prospect" means a location within the Cook Inlet sedimentary basin, as that term is defined by regulation adopted to implement AS 38.05.180(f)(4);

(3) *[Repealed, § 34 ch 2 TSSLA 2006.]*

(4) "preexisting well" means a well that was spudded more than 540 days but less than 35 years before the date on which the exploration well to which it is compared is spudded."

((§ 3 ch 59 SLA 2003; am § 49 ch 49 SLA 2004; am §§ 2 - 8 ch 81 SLA 2005; am §§ 14 - 18, 34 ch 2 TSSLA 2006; am §§ 36 - 44 ch 1 SSSLA 2007))

Revisor's notes. Subsection (k) was enacted as (l); relettered in 2008 at which time subsection (k) was relettered as (l) and references in (f)(1) and (f)(2)(C) of this section were conformed.

Administrative Code. - For tax credits, see 15 AAC 55, art. 3.

Effect of amendments. The 2004 amendment, effective June 5, 2004, inserted "from an oil and gas lease, or on gas produced from a gas only lease" in the introductory language of subsection (a).

The 2005 amendment, effective July 22, 2005, rewrote subsections (a), (c), and (d); in subsection (b) added the language beginning ", except that" to the end of the introductory language; in subsection (e) substituted "tax credit authorized by (a)(4)" for "tax credit in (a)" in the introductory language; in subsection (f), in subparagraph (2)(A) added the language beginning "if, under (c)(2)(B)" to the end of the subparagraph, and in paragraph (5) added the language beginning "; however, notwithstanding" to the end of the paragraph; and in subsection (k) added paragraphs (1) and (2) and the paragraph (3) designation.

The 2006 amendment, effective August 20, 2006, deleted "on oil and gas produced on or after July 1, 2004, from an oil and gas lease, or on gas produced from a gas only lease" following "this section" in the introductory paragraph of subsection (a), and substituted "AS 43.55.011(e) or (f)" for "this chapter" in that paragraph, in paragraphs (f)(5) and (i)(1), and twice in paragraph (i)(2), substituted "2016" for "2007" in the introductory paragraph of subsection (b), deleted "and before July 1, 2010, and except that an exploration expenditure, in whole or in part, south of 68 degrees, 15 minutes, North latitude, and not part of a Cook Inlet prospect must be incurred for work performed on or after July 1, 2003, and before July 1, 2010" following "July 1, 2005" in that paragraph, deleted "however, notwithstanding any other provision of this section, the department may not issue to an explorer a production tax credit certificate if the total of production tax credits submitted for Cook Inlet production, based on exploration expenditures for work performed during the period described in (b) of this section for that production, that have been approved by the department exceeds \$20,000,000" at the end of paragraph (f)(5), substituted "calendar year" for "tax month" four times in subsection (i), and repealed paragraphs (k)(1) and (k)(3).

The first 2007 amendment, effective December 20, 2007, in subsection (g), inserted "other than an entity that is exempt from taxation under this chapter".

The second 2007 amendment, effective July 1, 2008, in subsection (a), deleted "or (f)" following "under AS 43.55.011(e)" and substituted "levied by" for "due under", in (a)(1) substituted "30 percent" for "20 percent", in (a)(2) substituted "30 percent" for "20 percent", and deleted "for work performed before July 1, 2007, and" following "exploration expenditures"; in subsection (b), substituted "work performed after June 30, 2008, and before July 1, 2016" for "work performed on or after July 1, 2003 and before July 1, 2016, except that an exploration expenditure for a Cook Inlet prospect must be incurred for work performed on or after July 1, 2005", in (b)(1) inserted "other" preceding "geophysical exploration", in (b)(2)(B), substituted "either a well that encounters an oil or gas deposit or a dry hole" for "either an oil or gas discovery well or a dry hole", divided former (b)(2)(C) into (b)(2)(C) and (b)(2)(D), and inserted "a well that has been completed, suspended, or abandoned at the time the explorer claims the tax credit under (f) of this section; and (D) must be for", in (b)(3), following "may not be for" deleted "testing, stimulation, or completion costs" and inserted the phrase beginning "costs, including repairs and replacements" and ending "(Clean Water Act)", in (b)(4) substituted "before May 14, 2003" for "on May 13, 2003"; repealed and reenacted subsection (c), substituting "30 percent production tax credit" for "20 percent production tax credit", adding the provisions in (c)(2)(A) regarding submission of information to, and action by, the commissioner of natural resources, and revising the Cook Inlet requirements; in subsection (d), substituted "30 percent production tax credit" for "20 percent production tax credit"; in subsection (f), inserted "except for a credit under (k) of this section" following "by the department, and", and added "in addition, the explorer shall submit information necessary for the commissioner of natural resources to evaluate the validity of the explorer's compliance with the requirements of this section;", and in (f)(2)(A) substituted "completion of well drilling" for "completion of a well" and deleted provisions requiring submission of additional information to the commissioner of natural resources when a well located within three miles of a well already drilled for oil and gas; in (f)(2)(B), inserted "unless a longer period is provided by the Department of Natural Resources" and "in this subparagraph", and added (f)(2)(B)(i) and (f)(2)(B)(ii); rewrote (f)(2)(C), which read "that, notwithstanding any provision of AS 38, information provided under this paragraph will be held confidential by the Department of Natural Resources for 10 years following the completion date, at

which time that department will release the information after 30 days' public notice;" in (f)(5), inserted "and that all data required to be submitted under this section have been submitted", and added the language beginning "levied by AS 43.55.011(e), notwithstanding" through the end of the subsection; in subsection (h), substituted "production tax levied by AS 43.55.011(e)" for "production tax liability under AS 43.55.011(e) or (f)"; repealed and reenacted subsection (i), simplifying the language; added (l)(4); added (k).

Effective dates. Section 3, ch. 59, SLA 2003, which enacted this section, took effect on September 9, 2003.

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that the 2006 amendment of (a), (f), (h), (i), and (k) of this section are retroactive to April 1, 2006, and "apply to oil and gas produced after March 31, 2006."

Subsection 74(a), ch. 1, SSSLA 2007, provides that the amendment of (g) of this section is retroactive to July 1, 2003.

Sec. 43.55.028. Oil and gas tax credit fund established; cash purchases of tax credit certificates.

(a) The oil and gas tax credit fund is established as a separate fund of the state. The purpose of the fund is to purchase certain transferable tax credit certificates issued under AS 43.55.023 and certain production tax credit certificates issued under AS 43.55.025.

(b) The oil and gas tax credit fund consists of

(1) money appropriated to the fund, including any appropriation of the percentage provided under (c) of this section of all revenue from taxes levied by AS 43.55.011 that is not required to be deposited in the constitutional budget reserve fund established in art. IX, sec. 17(a), Constitution of the State of Alaska; and

(2) earnings on the fund.

(c) The applicable percentage for a fiscal year under (b)(1) of this section is determined with reference to the average price or value forecast by the department for Alaska North Slope oil sold or otherwise disposed of on the United States West Coast during the fiscal year for which the appropriation of revenue from taxes levied by AS 43.55.011 is made. If that forecast is

(1) \$60 a barrel or higher, the applicable percentage is 10 percent;

(2) less than \$60 a barrel, the applicable percentage is 15 percent.

(d) The department shall manage the fund.

(e) The department, on the written application of the person to whom a transferable tax credit certificate has been issued under AS 43.55.023(d) or a production tax credit certificate has been issued under AS 43.55.025(f), may use available money in the oil and gas tax credit fund to purchase, in whole or in part, the certificate if the department finds that

(1) the calendar year of the purchase is not earlier than the first calendar year for which the credit shown on the certificate would otherwise be allowed to be applied against a tax;

(2) within 24 months after applying for the transferable tax credit certificate or filing a claim for the production tax credit certificate, the applicant incurred a qualified capital expenditure

or was the successful bidder on a bid submitted for a lease on state land under AS 38.05.180(f);

(3) the amount expended for the purchase would not exceed the total of qualified capital expenditures and successful bids described in (2) of this subsection that have not been the subject of a finding made under this paragraph for purposes of a previous purchase of a certificate;

(4) the applicant does not have an outstanding liability to the state for unpaid delinquent taxes under this title;

(5) the applicant's total tax liability under AS 43.55.011(e), after application of all available tax credits, for the calendar year in which the application is made is zero;

(6) the applicant's average daily production of oil and gas taxable under AS 43.55.011(e) during the calendar year preceding the calendar year in which the application is made was not more than 50,000 BTU equivalent barrels; and

(7) the purchase is consistent with this section and regulations adopted under this section.

(f) Money in the fund remaining at the end of a fiscal year does not lapse and remains available for expenditure in successive fiscal years.

(g) The department may adopt regulations to carry out the purposes of this section, including standards and procedures to allocate available money among applications for purchases the total amount of which exceeds the amount of available money in the fund.

(h) Nothing in this section creates a dedicated fund.

(i) In this section, "qualified capital expenditure" has the meaning given in AS 43.55.023. ((§ 46 ch 1 SSSLA 2007))

Effective dates. Section 75, ch. 1, SSSLA 2007, makes this section effective January 1, 2008.

Editor's notes. Section 68(b), ch. 1, SSSLA 2007 provides that "[i]f an application made under [former] AS 43.55.023(f) is received by the Department of Revenue before January 1, 2008, and is still outstanding on that date, the application is considered to be an application under [this section]."

Legislative history reports. For governor's transmittal letter for ch. 1, SSSLA 2007 (HB 2001), presenting, among other matter, proposals relating to establishment of an oil and gas tax credit fund to implement purchase of authorized tax credits from explorers and producers, see 2007 House Journal 1547 - 1550.

Sec. 43.55.030. Filing of statements.

(a) A producer that produces oil or gas from a lease or property in the state during a calendar year, whether or not any tax payment is due under AS 43.55.020(a) for that oil or gas, shall file with the department on March 31 of the following year a statement, under oath, in a form prescribed by the department, giving, with other information required, the following:

(1) a description of each lease or property from which oil or gas was produced, by name, legal description, lease number, or accounting codes assigned by the department;

(2) the names of the producer and, if different, the person paying the tax, if any;

- (3) the gross amount of oil and the gross amount of gas produced from each lease or property, and the percentage of the gross amount of oil and gas owned by the producer;
- (4) the gross value at the point of production of the oil and of the gas produced from each lease or property owned by the producer and the costs of transportation of the oil and gas;
- (5) the name of the first purchaser and the price received for the oil and for the gas, unless relieved from this requirement in whole or in part by the department;
- (6) the producer's qualified capital expenditures, as defined in AS 43.55.023, other lease expenditures under AS 43.55.165, and adjustments or other payments or credits under AS 43.55.170;
- (7) the production tax values of the oil and gas under AS 43.55.160;
- (8) any claims for tax credits to be applied; and
- (9) calculations showing the amounts, if any, that were or are due under AS 43.55.020(a) and interest on any underpayment or overpayment.

(b) *[Repealed, § 11 ch 101 SLA 1972.]*

(c) *[Repealed, § 11 ch 101 SLA 1972.]*

(d) Reports required under this section are delinquent the first day following the day the report is due. The person required to file the report is liable for a penalty, as determined by the department under standards adopted in regulation by the department, of not more than \$1,000 for each day the person fails to file the report at the time required. The penalty is in addition to the penalties in AS 43.05.220 and 43.05.290 and is assessed, collected, and paid in the same manner as a tax deficiency under this title. In this subsection, "report" includes a statement.

(e) An explorer or producer that incurs a lease expenditure under AS 43.55.165 or receives a payment or credit under AS 43.55.170 during a calendar year but does not produce oil or gas from a lease or property in the state during the calendar year shall file with the department on March 31 of the following year a statement, under oath, in a form prescribed by the department, giving, with other information required, the following:

(1) the producer's qualified capital expenditures, as defined in AS 43.55.023, other lease expenditures under AS 43.55.165, and adjustments or other payments or credits under AS 43.55.170; and

(2) if the explorer or producer receives a payment or credit under AS 43.55.170, calculations showing whether the explorer or producer is liable for a tax under AS 43.55.160(d) or 43.55.170(b) and, if so, the amount.

(f) The department may require a producer, an explorer, or an operator of a lease or property to file monthly reports, as applicable, of

(1) the amounts and gross value at the point of production of oil and gas produced;

(2) transportation costs of the oil and gas;

(3) any unscheduled interruption of, or reduction in the rate of, oil or gas production;

- (4) lease expenditures and adjustments under AS 43.55.165 and 43.55.170;
 - (5) joint interest billings;
 - (6) contracts for the sale or transportation of oil or gas;
 - (7) information and calculations used in determining monthly installment payments of estimated tax under AS 43.55.020(a); and
 - (8) other records and information the department considers necessary for the administration of this chapter.
- ((§ 4 ch 7 ESLA 1955; am §§ 10 - 12 ch 101 SLA 1972; am §§ 4 - 6 ch 136 SLA 1977; am §§ 19, 20 ch 2 TSSLA 2006; am §§ 47 - 49 ch 1 SSSLA 2007))

Cross references. For transitional provisions for oil and gas produced after March 31, 2006, and before January 1, 2007, see § 36(d) and (g) in the 2006 Temporary and Special Acts.

For transitional provision extending to April 1, 2008, the deadline applicable to persons required to file a statement under (a), (e), or (f) of this section during the period between July 1, 2007, and December 20, 2007, and who may have failed to do so because of the retroactive application of certain provisions of ch. 1, SSSLA 2007 to July 1, 2007, see § 71(b), ch. 1, SSSLA 2007.

Administrative Code. - For gross value at the point of production of oil and gas, see 15 AAC 55, art. 1.

For tax credits, see 15 AAC 55, art. 3.

For payments and reporting, see 15 AAC 55, art. 5.

Effect of amendments. The 2006 amendment, effective August 20, 2006, rewrote subsection (a), in part by adding paragraph (a)(6), substituted "report" for "tax" in subsection (d), and deleted the last sentence of subsection (d), relating to a penalty for failure to file a report.

The 2007 amendment, effective December 20, 2007, in subsection (a), substituted "A producer that produces oil or gas from a lease or property in the state during a calendar year, whether or not any tax payment is due under AS 43.55.020(a) for that oil or gas" for "The person paying the tax" and "the following year" for "the year following the calendar year for which the tax was levied", in (a)(1) substituted "from which oil or gas was produced" for "from which the oil and gas were produced", in (a)(2) inserted "if different" and added "if any" at the end, in (a)(3) substituted "owned by the producer" for "owned by each producer for whom the tax is paid", in (a)(4) substituted "the producer and the costs of transportation of the oil and gas" for "each producer for whom the tax is paid", rewrote (a)(6), which read "the producer's lease expenditures and adjustments as calculated under AS 43.55.160 - 43.55.170", added (a)(7), (a)(8), and (a)(9); rewrote subsection (d), which read "Reports by or on behalf of the producer are delinquent the first day following the day the report is due."; added subsections (e) and (f).

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that the 2006 amendment of (a) and (d) of this section are retroactive to April 1, 2006, and "apply to oil and gas produced after March 31, 2006."

Legislative history reports. For governor's transmittal letter for ch. 1, SSSLA 2007 (HB 2001), presenting, among other matter, proposals to strengthen reporting requirements and impose additional penalties for failure to file reports when due, see 2007 House Journal 1547 - 1550.

Sec. 43.55.040. Powers of Department of Revenue.

Except as provided in AS 43.05.405 - 43.05.499, the department may

(1) require a person engaged in production and the agent or employee of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil or gas to furnish, whether by the filing of regular statements or reports or otherwise, additional information that is considered by the department as necessary to compute the amount of the tax; notwithstanding any contrary provision of law, the disclosure of additional information under this paragraph to the producer obligated to pay the tax does not violate AS 40.25.100(a) or AS 43.05.230(a); before disclosing information under this paragraph that is otherwise required to be held confidential under AS 40.25.100(a) or AS 43.05.230(a), the department shall

(A) provide the person that furnished the information a reasonable opportunity to be heard regarding the proposed disclosure and the conditions to be imposed under (B) of this paragraph; and

(B) impose appropriate conditions limiting

(i) access to the information to those legal counsel, consultants, employees, officers, and agents of the producer who have a need to know that information for the purpose of determining or contesting the producer's tax obligation; and

(ii) the use of the information to use for that purpose;

(2) examine the books, records, and files of the person;

(3) conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person;

(4) make an investigation or hold an inquiry that is considered necessary to a disclosure of the facts as to

(A) the amount of production from any oil or gas location, or of a company or other producer of oil or gas; and

(B) the rendition of the oil and gas for taxing purposes;

(5) require a producer, an explorer, or an operator of a lease or property to file reports and copies of records that the department considers necessary to forecast state revenue under this chapter; in the case of reports and copies of records relating to proposed, expected, or approved unit expenditures for a unit for which one or more working interest owners other than the operator have authority to approve unit expenditures, the required reports and copies of records are limited to those reports or copies of records that constitute or disclose communications between the operator and the working interest owners relating to unit budget matters;

(6) require a producer that has an average total production in the state of more than 100,000 barrels a day for a calendar year to report the gross value at the point of production of the producer's taxable oil and gas in the state for a calendar year and the total amount of lease expenditures in the state for that calendar year; and

(7) assess against a person required under this section to file a report, statement, or other document a penalty, as determined by the department under standards adopted in regulation by the department, of not more than \$1,000 for each day the person fails to file the report,

statement, or other document after notice by the department; the penalty is in addition to any penalties under AS 43.05.220 and 43.05.290 and is assessed, collected, and paid in the same manner as a tax deficiency under this title; the penalty shall bear interest at the rate specified under AS 43.05.225(1).

((§ 5 ch 7 ESLA 1955; am § 16 ch 108 SLA 1996; am § 75 ch 163 SLA 2004; am § 21 ch 2 TSSLA 2006; am § 50 ch 1 SSSLA 2007))

Administrative Code. - For gross value at the point of production of oil and gas, see 15 AAC 55, art. 1.

For tax credits, see 15 AAC 55, art. 3.

For payments and reporting, see 15 AAC 55, art. 5.

Effect of amendments. The 2004 amendment, effective July 1, 2005, substituted "AS 43.05.405 - 43.05.499" for "AS 43.05.400 - 43.05.499" in the introductory language.

The 2006 amendment, effective August 20, 2006, in paragraph (1) inserted "whether by the filing of regular statements or reports or otherwise" near the beginning and added the language "notwithstanding any contrary provision" through the end of the paragraph, including subparagraphs (A) and (B).

The 2007 amendment, effective December 20, 2007, made a minor stylistic change in paragraph (2) and added paragraphs (5), (6), and (7).

Legislative history reports. For governor's transmittal letter for ch. 1, SSSLA 2007 (HB 2001), presenting, among other matter, proposals to strengthen reporting requirements and impose additional penalties for failure to file reports when due, see 2007 House Journal 1547 - 1550.

Sec. 43.55.050. Incorrect returns.

The department may determine whether or not a return required by this chapter to be filed with it is correct. If a person makes an untrue or incorrect return of the gross production or the value of it, or fails or refuses to make a return, the department shall, under regulations adopted by it, determine the correct amount of gross production or the value of it, and compute the tax.

((§ 6 ch 7 ESLA 1955))

Sec. 43.55.060. Delinquency.

When the tax provided for in this chapter becomes delinquent, it bears interest as provided in AS 43.05.225(1). If any person fails to make a report required by this chapter, within the time prescribed by law for the report, the department shall examine the books, records and files of the person to determine the amount and value of the production to compute the tax, and the department shall add to the tax the cost of the examination, together with any penalties accrued.

((§ 7 ch 7 ESLA 1955; am § 4 ch 58 SLA 1971; am § 13 ch 82 SLA 1982; am § 5 ch 23 SLA 1991))

Sec. 43.55.070. Lien for tax. [Repealed, § 4 ch 94 SLA 1976. For current law, see AS 43.10.035].

Sec. 43.55.075. Limitation on assessment and amended returns.

(a) Except as provided in AS 43.05.260(c), the amount of a tax imposed by this chapter must be assessed within six years after the return was filed.

(b) A decision of a regulatory agency, court, or other body with authority to resolve disputes that results in a retroactive change to a lease expenditure, to an adjustment to a lease expenditure, to costs of transportation, to sale price, to prevailing value, or to consideration of quality differentials relating to the commingling of oils has a corresponding effect, either an increase or decrease, as applicable, on the production tax value of oil or gas or the amount or availability of a tax credit as determined under this chapter. For purposes of this section, a change to a lease expenditure includes a change in the categorization of a lease expenditure as a qualified capital expenditure or as not a qualified capital expenditure. The producer shall

(1) within 60 days after the change, notify the department in writing; and

(2) within 120 days after the change, file amended returns covering all periods affected by the change, unless the department agrees otherwise or a stay is in place that affects the filing or payment, regardless of the pendency of appeals of the decision.

(c) If an alteration in or modification of a producer's federal income tax return or a recomputation of the producer's federal income tax or determination of deficiency occurs that affects the amount of a tax imposed on the producer under this chapter, the producer shall

(1) within 60 days after the final determination of the alteration, modification, recomputation, or deficiency, notify the department in writing; and

(2) within 120 days after the final determination of the alteration, modification, recomputation, or deficiency, file amended returns covering all affected periods.

(d) In this section,

(1) "qualified capital expenditure" has the meaning given in AS 43.55.023;

(2) "return" includes a report, a statement, and an amended return, report, or statement.

((§ 51 ch 1 SSSLA 2007))

Cross references. For statement of legislative intent regarding (b) of this section, see § 1(b), ch. 1, SSSLA 2007.

Effective dates. Section 51, ch. 1, SSSLA 2007, which enacted this section, took effect on December 20, 2007.

Editor's notes. Section 68(a), ch. 1, SSSLA 2007 provides that AS 43.55.075(a) "applies to any tax liability under AS 43.55 for the production of oil and gas after December 31, 2006."

Legislative history reports. For governor's transmittal letter for ch. 1, SSSLA 2007 (HB 2001), presenting, among other matter, a statement of the need to extend the statute of limitations for assessing deficiencies from three to six years, see 2007 House Journal 1547 - 1550.

Sec. 43.55.080. Collection and deposit of revenue.

Except as otherwise provided under art. IX, sec. 17, Constitution of the State of Alaska, the department shall deposit in the general fund the money collected by it under AS 43.55.011 - 43.55.180.

((§ 10 ch 7 ESLA 1955; am § 14 ch 101 SLA 1972; am § 22 ch 2 TSSLA 2006))

Revisor's notes. A reference to "AS 43.55.011 - 43.55.150" was substituted for "this chapter" in this section in 1989 to reflect the enactment of AS 43.55.200 - 43.55.240.

Administrative Code. - For hearing procedures, see 15 AAC 5, art. 1.

Effect of amendments. The 2006 amendment, effective August 20, 2006, added "Except as otherwise provided under art. IX, sec. 17, Constitution of the State of Alaska" at the beginning of the section, and made a section reference substitution.

Sec. 43.55.090. Refunds.

In case of overpayment, duplicate payment or payment made in error, the department may refund the amount of the overpayment under AS 43.10.210.

((§ 11 ch 7 ESLA 1955; am § 28 ch 168 SLA 1990))

Revisor's notes. In 1998, "AS 43.10.210" was substituted for "AS 43.15.010" to reflect the 1990 renumbering of AS 43.15.010.

Sec. 43.55.100. Acceptance of deductions. [Repealed, § 15 ch 101 SLA 1972].

Sec. 43.55.110. Administration.

(a) The department may adopt regulations for the purpose of making and filing reports required by this chapter and otherwise necessary to the enforcement of this chapter.

(b) The department may require a sufficient bond from every person charged with the making and filing of reports and the payment of the tax. The bond shall run to the state and shall be conditioned upon the making and filing of reports as required by law, upon compliance with the regulations of the department, and for the prompt payment, by the principal on the bond, of all taxes due the state by virtue of this chapter.

(c) If reports required have not been filed, or are insufficient to furnish the information required by the department, the department shall institute, in the name of the state upon relation of the department, the necessary action or proceedings to enjoin the person from continuing operations until the reports are filed.

(d) Upon showing that the state is in danger of losing its claims or the property is being mismanaged, dissipated or concealed, a receiver shall be appointed at the suit of the state.

(e) The department may require that returns, statements, reports, notifications, and applications filed under this chapter be filed electronically in a form and manner approved or prescribed by the department.

(f) The department may require that payments required under this chapter be made electronically in a form and manner approved or prescribed by the department.

(g) Notwithstanding AS 44.62, the department may issue, for the information and guidance of producers, explorers, and other interested persons, advisory bulletins stating the department's interpretation of provisions of this chapter and of regulations adopted under this chapter. Unless otherwise provided by the department by regulation, interpretations stated in the advisory bulletins are not binding on the department or others.

(h) Subject to legislative appropriation, the department may compensate a person who provides information to the department about noncompliance with the provisions of this chapter by an explorer or a producer of oil or gas if that information leads to the collection of additional taxes, penalties, or interest from the producer. The amount of compensation under this subsection may not exceed the lesser of \$500,000 or 10 percent of the additional tax, penalty, or interest collected as a result of the information. A state employee or an agent of the state is not eligible for compensation under this subsection.

(i) A person who, under (h) of this section, provides, in bad faith, to the department erroneous information about noncompliance with the provisions of this chapter by an explorer or producer of oil or gas shall pay to the

(1) department all expenses related to the department's investigation of the alleged noncompliance; and

(2) explorer or producer about whom the noncompliance was alleged all expenses that are incurred by the explorer or producer relating to the department's investigation of the alleged noncompliance.

((§ 13 ch 7 ESLA 1955; am § 52 ch 1 SSSLA 2007))

Cross references. For a transitional provision explicitly authorizing the Department of Revenue to adopt regulations having retroactive effect to April 1, 2006, to implement, interpret, make specific, or otherwise carry out the provisions of amendments and additions to specific provisions of this chapter made by ch. 2, TSSLA 2006, see § 37, ch. 2, TSSLA 2006, in the 2006 Temporary and Special Acts.

For a transitional provision explicitly authorizing the Department of Revenue to adopt regulations having retroactive effect to April 1, 2006, or to July 1, 2007, as appropriate, to implement, interpret, make specific, or otherwise carry out the provisions of amendments and additions to specific provisions of this chapter made by ch. 1, SSSLA 2007, see § 72(a), ch. 1, SSSLA 2007.

Administrative Code. - For hearing procedures, see 15 AAC 5, art. 1.

For gross value at the point of production of oil and gas, see 15 AAC 55, art. 1.

For production tax value of oil and gas, see 15 AAC 55, art. 2.

For tax credits, see 15 AAC 55, art. 3.

For levy of tax, see 15 AAC 55, art. 4.

For payments and reporting, see 15 AAC 55, art. 5.

Effect of amendments. The 2007 amendment, effective December 20, 2007, added subsections (e), (f), (g), (h), and (i).

Sec. 43.55.120 - 43.55.130. Noncompliance and false reports. [Repealed, § 46 ch 113 SLA 1980. For criminal penalties, see AS 43.05.290.].

Sec. 43.55.135. Measurement.

For the purposes of AS 43.55.011 - 43.55.180, except as otherwise provided, oil is measured in terms of a "barrel of oil" and gas is measured in terms of a "cubic foot of gas."

((§ 16 ch 101 SLA 1972; am § 23 ch 2 TSSLA 2006))

Revisor's notes. A reference to "AS 43.55.011 - 43.55.150" was substituted for "this chapter" in this section in 1989 to reflect the enactment of AS 43.55.200 - 43.55.240.

Effect of amendments. The 2006 amendment, effective August 20, 2006, substituted "AS 43.55.011 - 43.55.280, except as otherwise provided" for "AS 43.55.011 - 43.55.150" and made minor stylistic changes.

Sec. 43.55.140. [Renumbered as AS 43.55.900.].

Sec. 43.55.150. Determination of gross value at the point of production.

(a) For the purposes of AS 43.55.011 - 43.55.180, the gross value at the point of production is calculated using the actual costs of transportation of the oil or gas, except when the

(1) shipper of oil or gas is affiliated with the transportation carrier or with a person that owns an interest in the transportation facility;

(2) contract for the transportation of oil or gas is not an arm's length transaction; or

(3) method or terms of transportation of oil or gas are not reasonable in view of existing alternative transportation options.

(b) If the department finds that a condition in (a)(1), (2), or (3) of this section is present, the gross value at the point of production is calculated using the actual costs of transportation, or the reasonable costs of transportation as determined under this subsection, whichever is lower. The department shall determine the reasonable costs of transportation, using the fair market value of like transportation, the fair market value of equally efficient and available alternative modes of transportation, or other reasonable methods. Transportation costs fixed by tariff rates that have been adjudicated as just and reasonable by the Regulatory Commission of Alaska or another regulatory agency and transportation costs in an arm's length transaction paid by parties not affiliated with an owner of the method of transportation shall be considered prima facie reasonable.

(c) In determining the gross value of oil under this section, the department may not allow as reasonable costs of transportation

(1) the amount of loss of or damage to, or of expense incurred due to the loss of or damage to, a vessel used to transport oil if the loss, damage, or expense is incurred in connection with a catastrophic oil discharge from the vessel into the marine or inland waters of the state;

(2) the incremental costs of transportation of the oil that are attributable to temporary use of or chartered or substituted service provided by another vessel due to the loss of or damage to a vessel regularly used to transport oil and that are incurred in connection with a catastrophic oil discharge into the marine or inland waters of the state; and

(3) the costs incurred to charter, contract, or hire vessels and equipment used to contain or clean up a catastrophic oil discharge.

((§ 6 ch 107 SLA 1976; am § 92 ch 59 SLA 1982; am § 1 ch 114 SLA 1989; am § 24 ch 2 TSSLA 2006; am § 53 ch 1 SSSLA 2007))

Revisor's notes. A reference to "AS 43.55.011 - 43.55.150" was substituted for "this chapter" in (a) of this section in 1989 to reflect the enactment of AS 43.55.200 - 43.55.240.

In 1999, the current reference in subsection (b) to "Regulatory Commission of Alaska" was substituted for "Alaska Public Utilities Commission" in accordance with § 30(a), ch. 25, SLA 1999.

Administrative Code. - For gross value at the point of production of oil and gas, see 15 AAC 55, art. 1.

Effect of amendments. The 2006 amendment, effective August 20, 2006, substituted "AS 43.55.011 - 43.55.280, the gross value at the point of production is" for "AS 43.55.011 - 43.55.150, the gross value shall be" in the introductory language of subsection (a), and made minor stylistic changes.

The 2007 amendment, effective December 20, 2007, in subsection (a), substituted "actual" for "reasonable" and deleted "the reasonable costs of transportation are the actual costs" following "transportation of the oil or gas", rewrote (a)(1), which read "parties to the transportation of oil or gas are affiliated", in (a)(2) deleted "or is not representative of the market value of that transportation" following "arm's length transaction", in (a)(3), inserted "or terms" following "method"; in subsection (b), in the first sentence, inserted "the gross value ..." to the end of the sentence, in the third sentence substituted "that have been adjudicated as just and reasonable by" for "properly on file with" and inserted "and transportation costs in an arm's length transaction paid by parties not affiliated with an owner of the method of transportation"; in subsection (c), substituted "under this section" for "under (a) of this section", and made related changes.

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that the 2006 amendment of (a) of this section is retroactive to April 1, 2006, and "appl[ies] to oil and gas produced after March 31, 2006."

Section 74(d), ch. 1, SSSLA 2007, provides that the 2007 amendments of this section are retroactive to July 1, 2007.

Legislative history reports. For legislative letter of intent in connection with the enactment of (c) of this section by § 1, ch. 114, SLA 1989 (HCS CSSB 299(Res)), see 1989 Senate Journal 1507.

Sec. 43.55.160. Determination of production tax value of oil and gas.

(a) Except as provided in (b) of this section, for the purposes of

(1) AS 43.55.011(e), the annual production tax value of the taxable

(A) oil and gas produced during a calendar year from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(B) oil and gas produced during a calendar year from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(C) oil produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a calendar year from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(E) gas produced during a calendar year from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(2) AS 43.55.011(g), the monthly production tax value of the taxable

(A) oil and gas produced during a month from leases or properties in the state that include land north of 68 degrees North latitude is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(B) oil and gas produced during a month from leases or properties in the state outside the Cook Inlet sedimentary basin, no part of which is north of 68 degrees North latitude, is the gross value at the point of production of the oil and gas taxable under AS 43.55.011(e) and produced by the producer from those leases or properties, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil and gas produced by the producer from those leases or properties, as adjusted under AS 43.55.170; this subparagraph does not apply to gas subject to AS 43.55.011(o);

(C) oil produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the oil taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the oil produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(D) gas produced during a month from a lease or property in the Cook Inlet sedimentary basin is the gross value at the point of production of the gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to the gas produced by the producer from that lease or property, as adjusted under AS 43.55.170;

(E) gas produced during a month from a lease or property outside the Cook Inlet sedimentary basin and used in the state is the gross value at the point of production of that gas taxable under AS 43.55.011(e) and produced by the producer from that lease or property, less 1/12 of the producer's lease expenditures under AS 43.55.165 for the calendar year applicable to that gas produced by the producer from that lease or property, as adjusted under AS 43.55.170.

(b) A production tax value calculated under this section may not be less than zero.

(c) Notwithstanding any contrary provision of AS 43.55.150, for purposes of calculating a monthly production tax value under (a)(2) of this section, the gross value at the point of production of the oil and gas is calculated under regulations adopted by the department that provide for using an appropriate monthly share of the producer's costs of transportation for the calendar year.

(d) Irrespective of whether a producer produces taxable oil or gas during a calendar year or month, the producer is considered to have generated a positive production tax value if a calculation described in (a) of this section yields a positive number because the producer's adjusted lease expenditures for a calendar year under AS 43.55.165 and 43.55.170 are less than zero as a result of the producer's receiving a payment or credit under AS 43.55.170. An explorer that has taken a tax credit under AS 43.55.023(b) or that has obtained a transferable tax credit certificate under AS 43.55.023(d) for the amount of a tax credit under AS 43.55.023(b) is considered a producer, subject to the tax levied under AS 43.55.011(e), to the extent that the explorer generates a positive production tax value as the result of the explorer's receiving a payment or credit under AS 43.55.170.

(e) Any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer in a calendar year but whose deduction would cause an annual production tax value calculated under (a)(1) of this section of taxable oil or gas produced during the calendar year to be less than zero may be used to establish a carried-forward annual loss under AS 43.55.023(b). However, the department shall provide by regulation a method to ensure that, for a period for which a producer's tax liability is limited by AS 43.55.011(j), (k), or (o), any adjusted lease expenditures under AS 43.55.165 and 43.55.170 that would otherwise be deductible by a producer for that period but whose deduction would cause a production tax value calculated under (a)(1)(C), (D), or (E) of this section to be less than zero are accounted for as though the adjusted lease expenditures had first been used as deductions in calculating the production tax values of oil or gas subject to any of the limitations under AS 43.55.011(j), (k), or (o) that have positive production tax values so as to reduce the tax liability calculated without regard to the limitation to the maximum amount provided for under the applicable provision of AS 43.55.011(j), (k), or (o). Only the amount of those adjusted lease expenditures remaining after the accounting provided for under this subsection may be used to establish a carried-forward annual loss under AS 43.55.023(b). In this subsection, "producer" includes "explorer."

((§ 25 ch 2 TSSLA 2006; am §§ 54 - 57 ch 1 SSSLA 2007))

Cross references. For transitional provision for calculation of the monthly production tax value of oil and gas produced after March 31, 2006, and before January 1, 2007, as calculated under (a)(2) of this section, see § 36(h), ch. 2, TSSLA 2006 in the 2006 Temporary and Special Acts.

Administrative Code. - For gross value at the point of production of oil and gas, see 15 AAC 55, art. 1.

For production tax value of oil and gas, see 15 AAC 55, art. 2.

For tax credits, see 15 AAC 55, art. 3.

For levy of tax, see 15 AAC 55, art. 4.

Effect of amendments. The 2007 amendment, effective December 20, 2007, in subsection (a), in (a)(1)(A) and (a)(1)(B) added "this subparagraph does not apply to gas subject to AS 43.55.011(o)" at the end, and added (a)(1)(E), in (a)(2)(A) and (a)(2)(B), substituted "AS 43.55.011(e)" for "AS 43.55.011(g)" and added "this subparagraph does not apply to gas subject to AS 43.55.011(o)", in

(a)(2)(C) and (a)(2)(D), substituted "AS 43.55.011(e)" for "AS 43.55.011(g)", and added (a)(2)(E); in subsection (b), substituted "under this section" for "under (a) of this section"; in subsection (c), deleted "taxable under AS 43.55.011(g)" following "at the point of production of the oil and gas"; in subsection (e), added the second and third sentences.

Effective dates. Section 40, ch. 2, TSSLA 2006, makes this section effective August 20, 2006, in accordance with AS 01.10.070(c).

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provides that this section is retroactive to April 1, 2006, and "appl[ies] to oil and gas produced after March 31, 2006."

Section 74(d), ch. 1, SSSLA 2007, provides that the 2007 amendments of this section are retroactive to July 1, 2007.

Sec. 43.55.165. Lease expenditures.

(a) Except as provided in (j) and (k) of this section, for purposes of this chapter, a producer's lease expenditures for a calendar year are

(1) costs, other than items listed in (e) of this section, that are

(A) incurred by the producer during the calendar year after March 31, 2006, to explore for, develop, or produce oil or gas deposits located within the producer's leases or properties in the state or, in the case of land in which the producer does not own an operating right, operating interest, or working interest, to explore for oil or gas deposits within other land in the state; and

(B) allowed by the department by regulation, based on the department's determination that the costs satisfy the following three requirements:

(i) the costs must be incurred upstream of the point of production of oil and gas;

(ii) the costs must be ordinary and necessary costs of exploring for, developing, or producing, as applicable, oil or gas deposits; and

(iii) the costs must be direct costs of exploring for, developing, or producing, as applicable, oil or gas deposits; and

(2) a reasonable allowance for that calendar year, as determined under regulations adopted by the department, for overhead expenses that are directly related to exploring for, developing, or producing, as applicable, the oil or gas deposits.

(b) For purposes of (a) of this section,

(1) direct costs include

(A) an expenditure, when incurred, to acquire an item if the acquisition cost is otherwise a direct cost, notwithstanding that the expenditure may be required to be capitalized rather than treated as an expense for financial accounting or federal income tax purposes;

(B) payments of or in lieu of property taxes, sales and use taxes, motor fuel taxes, and excise taxes;

(2) an activity does not need to be physically located on, near, or within the premises of the lease or property within which an oil or gas deposit being explored for, developed, or

produced is located in order for the cost of the activity to be a cost upstream of the point of production of the oil or gas;

(3) in determining whether costs are lease expenditures, the department may consider, among other factors, the

(A) typical industry practices and standards in the state that determine the costs, other than items listed in (e) of this section, that an operator is allowed to bill a producer that is not the operator, under unit operating agreements or similar operating agreements that were in effect before December 2, 2005, and were subject to negotiation with at least one producer with substantial bargaining power, other than the operator; and

(B) standards adopted by the Department of Natural Resources that determine the costs, other than items listed in (e) of this section, that a lessee is allowed to deduct from revenue in calculating net profits under a lease issued under AS 38.05.180(f)(3)(B), (D), or (E).

(c) *[Repealed, § 66 ch 1 SSSLA 2007.]*

(d) *[Repealed, § 66 ch 1 SSSLA 2007.]*

(e) For purposes of this section, lease expenditures do not include

(1) depreciation, depletion, or amortization;

(2) oil or gas royalty payments, production payments, lease profit shares, or other payments or distributions of a share of oil or gas production, profit, or revenue, except that a producer's lease expenditures applicable to oil and gas produced from a lease issued under AS 38.05.180(f)(3)(B), (D), or (E) include the share of net profit paid to the state under that lease;

(3) taxes based on or measured by net income;

(4) interest or other financing charges or costs of raising equity or debt capital;

(5) acquisition costs for a lease or property or exploration license;

(6) costs arising from fraud, wilful misconduct, gross negligence, violation of law, or failure to comply with an obligation under a lease, permit, or license issued by the state or federal government;

(7) fines or penalties imposed by law;

(8) costs of arbitration, litigation, or other dispute resolution activities that involve the state or concern the rights or obligations among owners of interests in, or rights to production from, one or more leases or properties or a unit;

(9) costs incurred in organizing a partnership, joint venture, or other business entity or arrangement;

(10) amounts paid to indemnify the state; the exclusion provided by this paragraph does not apply to the costs of obtaining insurance or a surety bond from a third-party insurer or surety;

(11) surcharges levied under AS 43.55.201 or 43.55.300;

(12) an expenditure otherwise deductible under (b) of this section that is a result of an internal transfer, a transaction with an affiliate, or a transaction between related parties, or is otherwise not an arm's length transaction, unless the producer establishes to the satisfaction of the department that the amount of the expenditure does not exceed the fair market value of the expenditure;

(13) an expenditure incurred to purchase an interest in any corporation, partnership, limited liability company, business trust, or any other business entity, whether or not the transaction is treated as an asset sale for federal income tax purposes;

(14) a tax levied under AS 43.55.011;

(15) costs incurred for dismantlement, removal, surrender, or abandonment of a facility, pipeline, well pad, platform, or other structure, or for the restoration of a lease, field, unit, area, tract of land, body of water, or right-of-way in conjunction with dismantlement, removal, surrender, or abandonment; a cost is not excluded under this paragraph if the dismantlement, removal, surrender, or abandonment for which the cost is incurred is undertaken for the purpose of replacing, renovating, or improving the facility, pipeline, well pad, platform, or other structure;

(16) costs incurred for containment, control, cleanup, or removal in connection with any unpermitted release of oil or a hazardous substance and any liability for damages imposed on the producer or explorer for that unpermitted release; this paragraph does not apply to the cost of developing and maintaining an oil discharge prevention and contingency plan under AS 46.04.030;

(17) costs incurred to satisfy a work commitment under an exploration license under AS 38.05.132;

(18) that portion of expenditures, that would otherwise be qualified capital expenditures, as defined in AS 43.55.023, incurred during a calendar year that are less than the product of \$0.30 multiplied by the total taxable production from each lease or property, in BTU equivalent barrels, during that calendar year, except that, when a portion of a calendar year is subject to this provision, the expenditures and volumes shall be prorated within that calendar year;

(19) costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment, other than a well, that results in or is undertaken in response to a failure, problem, or event that results in an unscheduled interruption of, or reduction in the rate of, oil or gas production; or costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment, other than a well, that is undertaken in response to, or is otherwise associated with, an unpermitted release of a hazardous substance or of gas; however, costs under this paragraph that would otherwise constitute lease expenditures under (a) and (b) of this section may be treated as lease expenditures if the department determines that the repair or replacement is solely necessitated by an act of war, by an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or by an intentional or negligent act or omission of a third party, other than a party or its agents in privity of contract with, or employed by, the producer or an operator acting for the producer, but only if the producer or operator, as applicable, exercised due care in operating and

maintaining the facility, pipeline, structure, or equipment, and took reasonable precautions against the act or omission of the third party and against the consequences of the act or omission; in this paragraph,

(A) "costs incurred for repair, replacement, or deferred maintenance of a facility, a pipeline, a structure, or equipment" includes costs to dismantle and remove the facility, pipeline, structure, or equipment that is being replaced;

(B) "hazardous substance" has the meaning given in AS 46.03.826;

(C) "replacement" includes renovation or improvement;

(20) costs incurred to construct, acquire, or operate a refinery or crude oil topping plant, regardless of whether the products of the refinery or topping plant are used in oil or gas exploration, development, or production operations; however, if a producer owns a refinery or crude oil topping plant that is located on or near the premises of the producer's lease or property in the state and that processes the producer's oil produced from that lease or property into a product that the producer uses in the operation of the lease or property in drilling for or producing oil or gas, the producer's lease expenditures include the amount calculated by subtracting from the fair market value of the product used the prevailing value, as determined under AS 43.55.020(f), of the oil that is processed;

(21) costs of lobbying, public relations, public relations advertising, or policy advocacy.

(f) For purposes of AS 43.55.023(a) and (b) and only as to expenditures incurred to explore for an oil or gas deposit located within land in which an explorer does not own a working interest, the term "producer" in this section includes "explorer."

(g) The department shall specify or approve a reasonable allocation method for determining the portion of a cost that is appropriately treated as a lease expenditure under this section if a cost that would otherwise constitute a lease expenditure under this section is incurred to explore for, develop, or produce

(1) both an oil or gas deposit located within land outside the state and an oil or gas deposit located within a lease or property, or other land, in the state; or

(2) an oil or gas deposit located partly within land outside the state and partly within a lease or property, or other land, in the state.

(h) The department shall adopt regulations that provide for reasonable methods of allocating costs between oil and gas, between gas subject to AS 43.55.011(o) and other gas, and between leases or properties in those circumstances where an allocation of costs is required to determine lease expenditures that are costs of exploring for, developing, or producing oil deposits or costs of exploring for, developing, or producing gas deposits, or that are costs of exploring for, developing, or producing oil or gas deposits located within different leases or properties.

(i) The department may adopt regulations that establish additional standards necessary to carrying out the purposes of this section and AS 43.55.170, including the incorporation of the concepts of 26 U.S.C. 482 (Internal Revenue Code), as amended, the related or accompanying regulations of that provision, and any ruling or guidance issued by the United States Internal Revenue Service that relates to that provision.

(j) For purposes of AS 43.55.160, for a calendar year after 2006 and before 2010, a producer's total lease expenditures, before adjustment under AS 43.55.170, that are applicable to oil and gas produced by the producer from all leases or properties from which 1,000,000,000 BTU equivalent barrels of oil or gas have been cumulatively produced by the close of 2006 and from which the average daily oil and gas production during 2006 exceeded 100,000 BTU equivalent barrels as the unit boundaries were defined on January 1, 2007, are determined under this subsection and (k) of this section. Except as otherwise provided under (k) of this section, the producer's total lease expenditures, other than qualified capital expenditures, (1) for calendar year 2007, are equal to the product of 1.37 multiplied by the total lease expenditures for calendar year 2006, other than qualified capital expenditures, that are applicable to oil and gas produced by the producer from all leases or properties within the unit, as reported on the producer's statement under AS 43.55.030(a) for calendar year 2006, and (2) for a calendar year after 2007, are equal to the product of 1.03 multiplied by the total lease expenditures, other than qualified capital expenditures, determined for the previous calendar year under this subsection. The producer's total lease expenditures for a calendar year after 2006 that are applicable to oil and gas produced by the producer from all leases or properties within a unit subject to this subsection are the sum of the producer's qualified capital expenditures incurred during the calendar year that are applicable to that oil and gas plus the lease expenditures, other than qualified capital expenditures, that are applicable to that oil and gas as determined under this subsection and (k) of this section. If a producer whose lease expenditures for 2006 are used to determine lease expenditures for a later calendar year under this subsection transfers an interest in an affected lease or property to a different producer or if the unit area of the applicable unit is changed from the area as it existed on December 31, 2006, the transferee's lease expenditures applicable to oil and gas produced by the transferee from the lease or property and a producer's lease expenditures applicable to oil or gas produced from a lease or property within a unit area as it existed on December 31, 2006, continue to be determined under this subsection using those 2006 lease expenditures. In this subsection, "qualified capital expenditures" has the meaning given in AS 43.55.023.

(k) If, after audit by the department of a producer's statement or amended statement under AS 43.55.030(a) for calendar year 2006, the department finally determines that the reported amount of total lease expenditures, other than qualified capital expenditures, for calendar year 2006 applicable to oil and gas produced by the producer from all leases or properties within a unit subject to (j) of this section exceeds by more than 10 percent the actual amount of those lease expenditures, other than qualified capital expenditures, the producer or transferee, as applicable, shall (1) substitute the actual amount of those lease expenditures, other than qualified capital expenditures, for purposes of the calculations set out in (j) of this section, and (2) file amended statements for affected past tax periods within 60 days after the final determination. The commissioner may adjust the deduction applicable under (j) of this section on changes in unit boundaries.

(l) For purposes of this section,

(1) "explore" includes conducting geological or geophysical exploration, including drilling a stratigraphic test well;

(2) "ordinary and necessary" has the meaning given in 26 U.S.C. 162 (Internal Revenue Code), as amended, and regulations adopted under that section;

(3) "stratigraphic test well" means a well drilled for the sole purpose of obtaining geological information to aid in exploring for an oil or gas deposit and the target zones of which are located in the state.

((§ 25 ch 2 TSSLA 2006; am §§ 58 - 62, 66 ch 1 SSSLA 2007))

Revisor's notes. Subsections (j) and (k) were enacted as (k) and (l); relettered in 2008 at which time subsection (j) was relettered as (l) and references in (a), (k) [relettered as (j)] and (l) [relettered as (k)] of this section were conformed.

Cross references. For transitional provision applicable to persons subject to the tax imposed by this chapter and required to make one or more installment payments of estimated tax or other payment required by the chapter but that failed to pay the full amount because of the retroactive application to April 1, 2006, of (e)(6) and (e)(19) of this section or the retroactive application of another provision of ch. 1, SSSLA 2007 to July 1, 2007, during the period after the respective due date and before December 20, 2007, see § 71(a), ch. 1, SSSLA 2007.

Administrative Code. - For production tax value of oil and gas, see 15 AAC 55, art. 2.

For tax credits, see 15 AAC 55, art. 3.

For payments and reporting, see 15 AAC 55, art. 5.

Effect of amendments. The 2007 amendment, effective December 20, 2007, repealed and reenacted subsection (a) which set out standards to determine the tax value of oil and gas based upon the location of the production; in subsection (b), deleted (b)(1)(C), which provided "a reasonable allowance, as determined under regulations adopted by the department, for overhead expenses directly related to exploring for, developing, and producing oil or gas deposits located within leases or properties or other land in the state", added (b)(3); in subsection (e), in (e)(2), added the language beginning "except that a producer's lease" to the end of the paragraph, rewrote (e)(6), which read "costs arising from fraud, willful misconduct, or gross negligence", rewrote (e)(12), which read "for a transaction that is an internal transfer or is otherwise not an arm's length transaction, expenditures incurred that are in excess of fair market value", rewrote (e)(15), inserted "tract of land" following "field, unit, area" and deleted provisions relating to pre-2006 production of oil or gas and defining the term "barrel of oil equivalent", in (e)(18), substituted "AS 43.55.023" for "AS 43.55.023(k)", added (e)(19), (e)(20), and (e)(21); rewrote subsection (h), which read "The department shall adopt regulations that provide for reasonable methods of allocating costs between oil and gas and between leases or properties in those circumstances where the determination of the lease expenditures that are applicable to oil or to gas, or that are applicable to oil and gas produced from different leases or properties, requires an allocation of costs.", added subsections (k) and (l) (now (j) and (k)); and effective January 1, 2008, repealed subsections (c) and (d).

Effective dates. Section 40, ch. 2, TSSLA 2006, makes this section effective August 20, 2006, in accordance with AS 01.10.070(c).

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that this section is retroactive to April 1, 2006, and "appl[ies] to oil and gas produced after March 31, 2006."

Subsection 74(b), ch. 1, SSSLA 2007, provides that the amendment of (e)(6) and enactment of (e)(19) of this section are retroactive to April 1, 2006. Section 74(c), ch. 1, SSSLA 2007, provides that subsections (j) and (k), enacted as (k) and (l), are retroactive to January 1, 2007. Section 74(d), ch. 1, SSSLA 2007, provides that the amendment of (a), (b), (e) (other than (e)(6) and (19)), and (h) of this section and the repeal of (c) and (d) of this section are retroactive to July 1, 2007.

Legislative history reports. For governor's transmittal letter for ch. 1, SSSLA 2007 (HB 2001), presenting, among other matter, proposals relating to how costs associated with a producer's lease expenditures are to be established for the purpose of determining allowable deductions against the oil and gas production tax, see 2007 House Journal 1547 - 1550.

Sec. 43.55.170. Adjustments to lease expenditures.

(a) A producer's lease expenditures under AS 43.55.165 must be adjusted by subtracting payments or credits, other than tax credits, received by the producer or by an operator acting for the producer for

(1) the use by another person of a production facility in which the producer has an ownership interest or the management by the producer of a production facility under a management agreement providing for the producer to receive a management fee;

(2) a reimbursement or similar payment that offsets the producer's lease expenditures, including an insurance recovery from a third-party insurer and a payment from the state or federal government for reimbursement of the producer's upstream costs, including costs for gathering, separating, cleaning, dehydration, compressing, or other field handling associated with the production of oil or gas upstream of the point of production;

(3) the sale or other transfer of

(A) an asset, including geological, geophysical, or well data or interpretations, acquired by the producer as a result of a lease expenditure or an expenditure that would be a lease expenditure if it were incurred after March 31, 2006; for purposes of this subparagraph,

(i) if a producer removes from the state, for use outside the state, an asset described in this subparagraph, the value of the asset at the time it is removed is considered a payment received by the producer for sale or transfer of the asset;

(ii) for a transaction that is an internal transfer or is otherwise not an arm's length transaction, if the sale or transfer of the asset is made for less than fair market value, the amount subtracted must be the fair market value; and

(B) oil or gas

(i) that is not considered produced from a lease or property under AS 43.55.020(e); and

(ii) the cost of acquiring which is a lease expenditure incurred by the person that acquires the oil or gas.

(b) Except as otherwise provided under this subsection, if one or more payments or credits subject to this section are received by a producer or by an operator acting for the producer during a calendar year and if either the total amount of the payments or credits exceeds the amount of the producer's applicable lease expenditures for that calendar year or the producer has no lease expenditures for that calendar year, the producer shall nevertheless subtract those payments or credits from the lease expenditures or from zero, respectively, and the producer's applicable adjusted lease expenditures for that calendar year are a negative number and shall be applied to the pertinent calculation under AS 43.55.160(a) as a negative number.

(c) For purposes of AS 43.55.023(a) and (b) and only as to expenditures incurred to explore for an oil or gas deposit located within land in which an explorer does not own a working interest, the term "producer" in this section includes "explorer."

((§ 25 ch 2 TSSLA 2006; am § 63 ch 1 SSSLA 2007))

Administrative Code. - For production tax value of oil and gas, see 15 AAC 55, art. 2.

Effect of amendments. The 2007 amendment, effective December 20, 2007, deleted "Unless the payment or credit has already been subtracted in calculating billable or billed costs under AS 43.55.165(c) or (d)" at the beginning of subsection (a).

Effective dates. Section 40, ch. 2, TSSLA 2006, makes this section effective August 20, 2006, in accordance with AS 01.10.070(c).

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that this section is retroactive to April 1, 2006, and "appl[ies] to oil and gas produced after March 31, 2006."

Section 74(d), ch. 1, SSSLA 2007, provides that the 2007 amendment of (a) of this section is retroactive to July 1, 2007.

Sec. 43.55.180. Required report.

(a) The department shall study

(1) the effects of the provisions of this chapter on oil and gas exploration, development, and production in the state, on investment expenditures for oil and gas exploration, development, and production in the state, on the entry of new producers into the oil and gas industry in the state, on state revenue, and on tax administration and compliance, giving particular attention to the tax rates provided under AS 43.55.011, the tax credits provided under AS 43.55.023 - 43.55.025, and the deductions for and adjustments to lease expenditures provided under AS 43.55.160 - 43.55.170; and

(2) the effects of the tax rates under AS 43.55.011(i) on state revenue and on oil and gas exploration, development, and production on private land, and the fairness of those tax rates for private landowners.

(b) The department shall prepare a report on or before the first day of the 2011 regular session of the legislature on the results of the study made under (a) of this section, including recommendations as to whether any changes should be made to this chapter. The department shall notify the legislature that the report prepared under this subsection is available.
((§ 25 ch 2 TSSLA 2006))

Administrative Code. - For gross value at the point of production of oil and gas, see 15 AAC 55, art. 1.

For payments and reporting, see 15 AAC 55, art. 5.

Effective dates. Section 40, ch. 2, TSSLA 2006, makes this section effective August 20, 2006, in accordance with AS 01.10.070(c).

Article 2. CONSERVATION SURCHARGE ON OIL

Section

- 200. [Repealed].
- 201. Surcharge levied.
- 210. [Repealed].
- 211. Use of revenue derived from surcharge.
- 220. [Repealed].
- 221. Suspension and reimposition of the surcharge.
- 230. [Repealed].
- 231. Surcharge not imposed.
- 240. [Repealed].
- 299. Definitions.

Cross references. For legislative findings and purpose in connection with the enactment of this article, see § 1, ch. 112, SLA 1989 in the Temporary and Special Acts.

Editor's notes. Section 5, ch. 112, SLA 1989 provides that chapter 112 "does not relieve a person responsible for an oil terminal facility, offshore exploration or production facility, or a vessel that transports crude oil, or a person who has control of a hazardous substance, from the responsibility for containing and cleaning up a discharge of oil or the hazardous substance as required by law."

Sec. 43.55.200. Surcharge levied. [Repealed, § 43 ch 128 SLA 1994].

Sec. 43.55.201. Surcharge levied.

(a) Every producer of oil shall pay a surcharge of \$.01 per barrel of oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation.

(b) The surcharge imposed by (a) of this section is in addition to the tax imposed by AS 43.55.011 and is due on the last day of the month on oil produced from each lease or property during the preceding month. The surcharge is in addition to the surcharge imposed by AS 43.55.300 - 43.55.310.

(c) A producer of oil shall make a report of production on March 31 of the year following the calendar year of production and in the same manner and under the same penalties as required under AS 43.55.011 - 43.55.180.

(d) Oil not considered under AS 43.55.020(e) to be produced from a lease or property is not considered to be produced from a lease or property for purposes of this section.
((§ 13 ch 128 SLA 1994; am §§ 26, 27 ch 2 TSSLA 2006))

Cross references. For statement of legislative intent regarding the 2006 amendment of (a) - (c) of this section, see § 1(b), ch. 2, TSSLA 2006, in the 2006 Temporary and Special Acts. For transitional provisions for surcharges due under this section on oil produced after March 31, 2006, and before January 1, 2007, see § 36(e) and (f), ch. 2, TSSLA 2006, in the 2006 Temporary and Special Acts.

Effect of amendments. The 2006 amendment, effective August 20, 2006, substituted "\$.01" for "\$.02" in subsection (a), substituted "the tax imposed by AS 43.55.011 and is due on the last day of the month on oil produced from each lease or property during the preceding month. The surcharge

shall be paid in the same manner as the tax imposed by AS 43.55.011 - 43.55.150, and" in subsection (b), substituted "a report of production on March 31 of the year following the calendar year of production and" for "reports of production" in subsection (c), added subsection (d), and made a section reference substitution in subsection (c).

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that the 2006 amendment of (a) - (c) of this section and the provisions of (d) of this section are retroactive to April 1, 2006, and "apply to oil and gas produced after March 31, 2006."

Sec. 43.55.210. Disposition of proceeds of surcharge. [Repealed, § 43 ch 128 SLA 1994].

Sec. 43.55.211. Use of revenue derived from surcharge.

The legislature may appropriate the annual estimated balance of the account maintained under AS 37.05.142 for deposits into the general fund of the proceeds of the surcharge levied under AS 43.55.201 to the response account in the oil and hazardous substance release prevention and response fund established by AS 46.08.010.
((§ 14 ch 128 SLA 1994))

Sec. 43.55.220. Use of revenue derived from surcharge. [Repealed, § 43 ch 128 SLA 1994].

Sec. 43.55.221. Suspension and reimposition of the surcharge.

(a) Not later than 30 days after the end of each calendar quarter, the commissioner of administration shall determine, as of the end of that quarter, the fiscal year's

(1) unreserved and unobligated balance in the response account of the oil and hazardous substance release prevention and response fund established in AS 46.08.010; for purposes of this paragraph, the "unreserved and unobligated balance in the response account" means the cash balance of the account less the sum of

(A) reserves for outstanding appropriations from the account;

(B) encumbrances of money in the account; and

(C) other liabilities of the account;

(2) balance of the account maintained under AS 37.05.142 that accounts for the proceeds of the surcharge that are deposited in the general fund;

(3) the balance of the response mitigation account established by AS 46.08.025(b) that originated from the sources described in AS 46.08.025(a)(3) and that is available for appropriation to the response account of the fund established in AS 46.08.010.

(b) Within 15 days after making the determinations required by (a) of this section, the commissioner of administration shall

(1) add the amounts determined under (a)(1) - (3) of this section; and

(2) report the sum calculated under (1) of this subsection to the commissioner of revenue.

(c) In making the determination required by (a) of this section, the commissioner of administration may not consider money described in (a) of this section that is subject to a dedication imposed by law that restricts the use of the money to a specific purpose for which the response account of the oil and hazardous substance release prevention and response fund established in AS 46.08.010 may not be lawfully expended.

(d) If the commissioner of administration reports that the sum reported under (b) of this section equals or exceeds \$50,000,000, the commissioner of revenue shall suspend imposition and collection of the surcharge levied and collected under AS 43.55.201. Suspension of the imposition and collection of the surcharge begins on the first day of the calendar quarter next following the commissioner's receipt of the commissioner of administration's report under (b) of this section. Before the first day of a suspension authorized by this subsection, the commissioner shall make a reasonable effort to notify all persons who are known to the department to be paying the surcharge under AS 43.55.201 that the surcharge will be suspended.

(e) Except as provided in AS 43.55.231, if the commissioner of administration reports that the sum reported under (b) of this section is less than \$50,000,000, the commissioner of revenue shall require imposition and collection of the surcharge authorized under AS 43.55.201. If the surcharge is not in effect, reimposition of the surcharge begins on the first day of the calendar quarter next following the commissioner's receipt of the commissioner of administration's report under (b) of this section. Before the first day of reimposition of the surcharge authorized by this subsection, the commissioner shall make a reasonable effort to notify all persons who are known to the department to be required to pay the surcharge under AS 43.55.201 that the surcharge will be reimposed.

((§ 15 ch 128 SLA 1994))

Sec. 43.55.230. Suspension and reimposition of the surcharge. [Repealed, § 43 ch 128 SLA 1994.].

Sec. 43.55.231. Surcharge not imposed.

(a) The surcharge authorized by AS 43.55.201 is not levied during any fiscal year for which

(1) the legislature does not, during the regular or a special legislative session preceding the first day of the fiscal year, appropriate at least an amount equal to the amount determined under (b) of this section from the general fund to the response account in the oil and hazardous substance release prevention and response fund; or

(2) the legislature, during the regular or a special legislative session preceding the first day of the fiscal year, appropriates at least the amount of money equal to the amount determined under (b) of this section from the general fund to the response account in the oil and hazardous substance release prevention and response fund and that appropriation is vetoed or reduced by the governor.

(b) The amount of money required to be appropriated from the general fund to the response account in the oil and hazardous substance release prevention and response fund by (a) of this section is the amount, determined for the last day of the preceding fiscal year, that is the sum of the actual or estimated balance of

(1) the account maintained under AS 37.05.142 to account for all proceeds of the surcharge that are deposited into the general fund; and

(2) the portion of the balance of the response mitigation account established by AS 46.08.025(b) that originated from the recovery of money described in AS 46.08.025(a)(3).
((§ 16 ch 128 SLA 1994))

Sec. 43.55.240. Surcharge not imposed. [Repealed, § 43 ch 128 SLA 1994].

Sec. 43.55.299. Definitions.

In AS 43.55.201 - 43.55.299,

(1) "response account" means the oil and hazardous substance release response account established in AS 46.08.010(a)(2);

(2) "response mitigation account" means the oil and hazardous substance release response mitigation account established in AS 46.08.025(b).
((§ 17 ch 128 SLA 1994))

Article 3. ADDITIONAL CONSERVATION SURCHARGE ON OIL

Section

300. Surcharge levied.

310. Use of revenue derived from surcharge.

Sec. 43.55.300. Surcharge levied.

(a) Every producer of oil shall pay a surcharge of \$.04 per barrel of oil produced from each lease or property in the state, less any oil the ownership or right to which is exempt from taxation.

(b) The surcharge imposed by (a) of this section is in addition to the tax imposed by AS 43.55.011 and is due on the last day of the month on oil produced from each lease or property during the preceding month. The surcharge is in addition to the surcharge imposed by AS 43.55.201 - 43.55.231.

(c) A producer of oil shall make a report of production on March 31 of the year following the calendar year of production and in the same manner and under the same penalties as required under AS 43.55.011 - 43.55.180.

(d) Oil not considered under AS 43.55.020(e) to be produced from a lease or property is not considered to be produced from a lease or property for purposes of this section.

((§ 17 ch 128 SLA 1994; am §§ 28, 29 ch 2 TSSLA 2006))

Cross references. For statement of legislative intent regarding the 2006 amendment of (a) - (c) of this section, see § 1(b), ch. 2, TSSLA 2006, in the 2006 Temporary and Special Acts. For transitional provisions for surcharges due under this section on oil produced after March 31, 2006, and before January 1, 2007, see § 36(e) and (f), ch. 2, and Special Acts TSSLA 2006, in the 2006 Temporary and Special Acts.

Effect of amendments. The 2006 amendment, effective August 20, 2006, substituted "\$.04" for "\$.03" in subsection (a), substituted "the tax imposed by AS 43.55.011 and is due on the last day of the month on oil produced from each lease or property during the preceding month. The surcharge" for "and shall be paid in the same manner as the tax imposed by AS 43.55.011 - 43.55.150, and" in subsection (b), substituted "a report of production on March 31 of the year following the calendar year of production and" for "reports of production" in subsection (c), added subsection (d), and made a section reference substitution in subsection (c).

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that the 2006 amendment of (a) - (c) of this section and the provisions of (d) of this section are retroactive to April 1, 2005 and "apply to oil and gas produced after March 31, 2006."

Sec. 43.55.310. Use of revenue derived from surcharge.

The legislature may appropriate the annual estimated balance of the account maintained under AS 37.05.142 for deposits into the general fund of the proceeds of the surcharge levied under AS 43.55.300 to the oil and hazardous substance release prevention account in the oil and hazardous substance release prevention and response fund established by AS 46.08.010.

((§ 17 ch 128 SLA 1994))

Article 4. GENERAL PROVISIONS

Section

890. Disclosure of tax information.

895. Applicability to municipal entities.

900. Definitions.

Sec. 43.55.890. Disclosure of tax information.

Notwithstanding any contrary provision of AS 40.25.100, and regardless of whether the information is considered under AS 43.05.230(e) to constitute statistics classified to prevent the identification of particular returns or reports, the department may publish the following information under this chapter, if aggregated among three or more producers or explorers, showing by month or calendar year and by lease or property, unit, or area of the state:

- (1) the amount of oil or gas production;
- (2) the amount of taxes levied under this chapter or paid under this chapter;
- (3) the effective tax rates under this chapter;
- (4) the gross value of oil or gas at the point of production;
- (5) the transportation costs for oil or gas;
- (6) qualified capital expenditures, as defined in AS 43.55.023;
- (7) exploration expenditures under AS 43.55.025;
- (8) production tax values of oil or gas under AS 43.55.160;
- (9) lease expenditures under AS 43.55.165;
- (10) adjustments to lease expenditures under AS 43.55.170;
- (11) tax credits applicable or potentially applicable against taxes levied by this chapter.
((§ 64 ch 1 SSSLA 2007))

Effective dates. Section 64, ch. 1, SSSLA 2007, which enacted this section, took effect on December 20, 2007.

Legislative history reports. For governor's transmittal letter for ch. 1, SSSLA 2007 (HB 2001), presenting, among other matter, proposals to allow the Department of Revenue to publish specific oil and gas production tax information in aggregate form, see 2007 House Journal 1547 - 1550.

Sec. 43.55.895. Applicability to municipal entities.

(a) Notwithstanding AS 29.35.670(a) or other provision of law, a producer that is a municipal entity is subject to taxation and payment of surcharges under this chapter for oil and gas that it sells to another party.

(b) A municipal entity subject to taxation because of this section is eligible for all tax credits under this chapter to the same extent as any other producer.

(c) In this section, "municipal entity" means a municipality, municipally owned utility, public corporation of a municipality, or entity established by more than one municipality.
((§ 64 ch 1 SSSLA 2007))

Effective dates. Section 64, ch. 1, SSSLA 2007, which enacted this section, took effect on December 20, 2007.

Editor's notes. Subsection 74(a), ch. 1, SSSLA 2007, provides that this section is retroactive to July 1, 2003.

Sec. 43.55.900. Definitions.

In this chapter,

(1) "barrel of oil" means 42 United States gallons of oil of 231 cubic inches a gallon computed at a temperature of 60 degrees Fahrenheit;

(2) "British thermal unit" means the quantity of heat required to raise the temperature of one pound of water from 58.5 degrees Fahrenheit to 59.5 degrees Fahrenheit at a constant pressure of one atmosphere;

(3) "BTU equivalent barrel" means

(A) in the case of oil, one barrel;

(B) in the case of gas, the amount of gas that has a heating value of 6,000,000 British thermal units;

(4) "catastrophic oil discharge" has the meaning given in AS 46.04.900;

(5) "Cook Inlet sedimentary basin" has the meaning given in regulations adopted to implement AS 38.05.180(f)(4);

(6) "cubic foot of gas" means the volume of gas contained in one cubic foot of space measured at a pressure base of 14.65 pounds per square inch absolute and a temperature base of 60 degrees Fahrenheit;

(7) "explorer" means a person who, in exploring for new oil or gas reserves, incurs expenditures;

(8) "gas" means

(A) all natural, associated, or casinghead gas;

(B) all hydrocarbons that

(i) are recovered by mechanical separation of well fluids or by gas processing in a gas processing plant; and

(ii) exist in a gaseous phase at the completion of mechanical separation and any gas processing in a gas processing plant; and

(C) all other hydrocarbons produced from a well not defined as oil;

(9) "gas processing"

(A) means processing a gaseous mixture of hydrocarbons

(i) by means of absorption, adsorption, externally applied refrigeration, artificial compression followed by adiabatic expansion using the Joule-Thomson effect, or another physical process that is not mechanical separation; and

(ii) for the purpose of extracting and recovering liquid hydrocarbons;

(B) does not include gas treatment;

(10) "gas processing plant" means a facility that

(A) extracts and recovers liquid hydrocarbons from a gaseous mixture of hydrocarbons by gas processing; and

(B) is located upstream of any gas treatment and upstream of the inlet of any gas pipeline system transporting gas to a market;

(11) "gas treatment"

(A) means conditioning gas and removing from gas nonhydrocarbon substances for the purpose of rendering the gas acceptable for tender and acceptance into a gas pipeline system;

(B) includes incidentally removing liquid hydrocarbons from the gas;

(C) does not include

(i) dehydration required to facilitate the movement of gas from the well to the point where gas processing takes place;

(ii) the scrubbing of liquids from gas to facilitate gas processing;

(12) "gross value at the point of production" means

(A) for oil, the value of the oil at its point of production without deduction of any costs upstream of that point of production;

(B) for gas, the value of the gas at its point of production without deduction of any costs upstream of that point of production;

(13) "heating value" means the gross number of BTUs released by complete combustion of an amount of gas;

(14) "landowner's royalty interest" means

(A) a lessor's royalty interest under an oil and gas lease; or

(B) a royalty interest that is

(i) held by a surface owner of land from which oil or gas is produced; and

(ii) granted in exchange for the right to use the surface of that land or as compensation for damage to the surface of that land;

(15) "lease or property" means any right, title, or interest in or the right to produce or recover oil or gas including:

(A) a mineral interest;

(B) a leasehold interest;

(C) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest, or any other interest in a lease, concession, joint venture, or other agreement for exploration, development, or production of oil and gas or of gas only;

(D) a working interest, royalty interest, overriding royalty interest, production payment, net profit interest or any other interest in an agreement for unitization or pooling under the provisions of 26 U.S.C. 614(b)(3) (Internal Revenue Code) as defined on January 1, 1974;

(16) "oil" means

(A) crude petroleum oil; and

(B) all liquid hydrocarbons that are recovered by mechanical separation of well fluids or by gas processing in a gas processing plant;

(17) "oil and gas lease" includes an oil and gas lease, a gas only lease, and an oil only lease;

(18) "ownership or right to which is exempt from taxation" means any ownership interest of the federal government or the state;

(19) "pipeline quality" means good and merchantable condition;

(20) "point of production" means

(A) for oil, the automatic custody transfer meter or device through which the oil enters into the facilities of a carrier pipeline or other transportation carrier in a condition of pipeline quality; in the absence of an automatic custody transfer meter or device, "point of production" means the mechanism or device to measure the quantity of oil that has been approved by the department for that purpose, through which the oil is tendered and accepted in a condition of pipeline quality into the facilities of a carrier pipeline or other transportation carrier or into a field topping plant;

(B) for gas, other than gas described in (C) of this paragraph, that is

(i) not subjected to or recovered by mechanical separation or run through a gas processing plant, the first point where the gas is accurately metered;

(ii) subjected to or recovered by mechanical separation but not run through a gas processing plant, the first point where the gas is accurately metered after completion of mechanical separation;

(iii) run through a gas processing plant, the first point where the gas is accurately metered downstream of the plant;

(C) for gas run through an integrated gas processing plant and gas treatment facility that does not accurately meter the gas after the gas processing and before the gas treatment, the

first point where gas processing is completed or where gas treatment begins, whichever is further upstream;

(21) "producer" means an owner of an operating right, operating interest, or working interest in a mineral interest in oil or gas;

(22) "surcharge" means

(A) when used in AS 43.55.201 - 43.55.299, the surcharge levied by AS 43.55.201;

(B) when used in AS 43.55.300 - 43.55.310, the surcharge levied by AS 43.55.300;

(23) "unit" means a group of tracts of land that is

(A) subject to a cooperative or a unit plan of development or operation that has been certified by the commissioner of natural resources under AS 38.05.180(p);

(B) subject to a cooperative or a unit plan of development or operation that has been certified by the United States Secretary of the Interior under 30 U.S.C. 226(m);

(C) subject to an agreement of the owners of interests in the tracts of land to validly integrate their interests to provide for the unitized management, development, and operation of the tracts of land as a unit, within the meaning of AS 31.05.110(a); or

(D) within the unit area of a unit created by order of the Alaska Oil and Gas Conservation Commission under AS 31.05.110(b);

(24) "used in the state" means delivered for consumption as fuel in the state, including as fuel consumed to generate electricity.

((§ 1 ch 7 ESLA 1955; am § 17 ch 101 SLA 1972; am § 3 ch 4 FSSLA 1973; am § 4 ch 159 SLA 1975; am §§ 7, 9 ch 136 SLA 1977; am § 2 ch 112 SLA 1989; am § 2 ch 114 SLA 1989; am § 38 ch 168 SLA 1990; am § 18 ch 128 SLA 1994; am § 50 ch 49 SLA 2004; am §§ 30 - 34 ch 2 TSSLA 2006; am § 65 ch 1 SSSLA 2007))

Revisor's notes. Formerly AS 43.55.140; renumbered in 1989. Paragraphs within the section were renumbered in 1983, 1989, 2006, and 2008, to maintain the alphabetical order of the terms.

Administrative Code. - For gross value at the point of production of oil and gas, see 15 AAC 55, art. 1.

Effect of amendments. The 2004 amendment, effective June 5, 2004, in subparagraph (15)(C), deleted "oil and gas" preceding "exploration" and added "of oil and gas or of gas only" at the end, and made stylistic changes.

The 2006 amendment, effective August 20, 2006, rewrote paragraphs (6) [now (8)], (7) [now (12)], and (10) [now (16)], added paragraphs (17) - (27) [now (2), (3), (5), (7), (9), (10), (11), (13), (14), (17), and (20) respectively], and repealed former paragraphs (1), (8), (11), (12), and (16).

The 2007 amendment, effective December 20, 2007, added paragraphs (22) (now (21)), (23), and (24).

Editor's notes. Sections 35(a) and 39, ch. 2, TSSLA 2006, provide that the 2006 additions, repeals and reenactments, and repeals of the various paragraphs in this section are retroactive to April 1, 2006, and "apply to oil and gas produced after March 31, 2006."

Section 74(d), ch. 1, SSSLA 2007, provides that the 2007 enactment of paragraphs (21) [enacted as paragraph (22)], (23), and (24) of this section are retroactive to July 1, 2007.

NOTES TO DECISIONS

Quoted in State v. Municipality of Anchorage, 104 P.3d 120 (Alaska 2004).